III

HISTORY OF TAXATION IN VERMONT

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HISTORY OF TAXATION IN VERMONT

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PREFACE.

THE history of taxation in any one of the American commonwealths should reveal much of value to the student of public finance; such a history of a commonwealth which has a distinctive social and historical character should be peculiarly instructive. In the case of Vermont, there exists the opportunity for observing the tendencies as to taxation of a homogeneous and largely agricultural community, made up in the main of holders of farms of moderate size and cultivated in practically the same manner which has marked New England farming from the colonial days. Indeed, Vermont is undoubtedly to-day the best type of the developed Puritan community existing in New England. The other New England commonwealths have been greatly changed by the rise of manufacturing, the growth of commerce and immigration. Vermont, on the other hand, has maintained to a striking degree the stamp imprinted upon her by the Connecticut pioneers who first brought civilization within her borders and made a chapter of political history more romantic in many ways than any in our annals. It is hoped that in the following pages the progress of taxation in this community has been traced with the accuracy demanded for a clear idea of its more prominent features.

But a word or two need be said as to the bibliography of the subject. Besides the general works on taxation, my chief reliance has been upon the statutes, the journals of the legislature, the court decisions, the reports of officials (par-

ticularly those of the tax commissioners and the Council of Censors), and the governors' messages. In these original documents it is believed the best sources of information have been found. Mention also should be made of that mine of facts concerning Vermont history—the records of the *Governor and Council*. The *Documentary History of New York*, the colonial laws of the province and local histories have been freely consulted in preparing the chapters relating to the period before Vermont announced her independence in 1777.

It is a pleasure to add that a number of the recent officials—especially the present tax commissioner, Hon. James L. Martin—have been most courteous in responding to inquiries as to details. Many others not holding official position have aided me materially in the work of investigation; and to Hon. L. E. Chittenden, of New York, I am indebted for the use of his invaluable library on Vermont in every phase of its past.

F. A. W.

Columbia College, January, 1894.

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CHAPTER I. EARLY POLITICAL HISTORY.

§ 1. *The Fourteenth Commonwealth.* Vermont was the first new commonwealth[1] to be admitted to the Union which had been formed by the people of the thirteen colonies. That it was not numbered with the thirteen in the formalities of the struggle for independence was due to its anomalous position at the time hostilities began. It was not a province of the crown; legally, it was a part of the province of New York. Yet it did not act with New York in any of the measures which that province took in opposition to the British government. There was, in fact, a rebellion against New York rule in existence in the territory now known as Vermont, and this rebellion did not end until, after repeated attempts at coercion and later at compromise, the people had become an independent state, which, in 1791, was erected into the fourteenth commonwealth. Some idea of the nature of this unique struggle is necessary as a background for a full appreciation of the development of taxation in Vermont; and if I am right in assuming that the number of those who are familiar with the issues involved is limited, no apology for a resumé of the facts of significance is needed. Such a resumé will have added pertinence, in that the revolt of the Vermonters, like so many other efforts at resistance to existing government, was partly due to a question of revenue.

[1] Although the word "state" is the official designation of Vermont, I have chosen to use in this monograph the more scientific term "commonwealth," the latter having reference to a political division for local government and being distinguished from the "state" by the absence of sovereignty in its people. See Professor J. W. Burgess' article on *The American Commonwealth*, POLITICAL SCIENCE QUARTERLY, vol. i (1886), p. 23.

§ 2. *Conflicting Claims to Jurisdiction.* Very little had been done toward the settlement of the territory between Lake Champlain and the Connecticut river north of the Massachusetts line before the French war of 1755–60. Before this war, and to a greatly increased extent during its progress, this was an exposed and dangerous tract. The lakes were a highway for the bands of English, French and Indians who were bent on hostilities. But the close of the war brought tranquillity, and settlements quickly sprang up, under charters from Governor Wentworth, of New Hampshire, who claimed jurisdiction to the westward to a point twenty miles east of the Hudson river—in other words, as far westward as Massachusetts extended. The commission[1] of George II to Governor Wentworth, dated June 3rd, 1741, referred to New Hampshire as

> bounded on the south side by a similar curve line pursuing the course of the Merrimack river at three miles distance on the north side thereof, beginning at the Atlantic ocean, and ending at a point due north of a place called Pawtucket Falls, and by a straight line drawn from thence due west across the said river till it meets with our other governments.

Moreover, in an order of the king in council,[2] dated September 6th, 1744, Fort Dummer, situated on the west side of the Connecticut river, was spoken of as having "lately fallen within the limits of said province of New Hampshire." These official utterances were construed by the New Hampshire governor to mean that his jurisdiction ran westward till it reached the New York jurisdiction at the same point at which Massachusetts and New York met.[3] Whether well

[1] Hiland Hall's *Early History of Vermont*, appendix no. 2, p. 476.

[2] *Ibid.*, appendix no. 3, p. 477.

[3] The question of boundary between Massachusetts and New York had not been settled at this time. New York claimed everything eastward to the Connecticut river.

satisfied with his contention or not, Governor Wentworth proceeded on the assumption that it was tenable, and charters to the number of about one hundred and thirty had been granted for establishing that number of townships, when, in July, 1764, at the suggestion of Lieutenant-Governor Colden of New York, an order of the king in council was issued, declaring "the western banks of the river Connecticut from where it enters the province of Massachusetts Bay, as far north as the forty-fifth degree of northern latitude, to be the boundary line between the two provinces of New Hampshire and New York." The order was succeeded in the following spring by a proclamation by the lieutenant-governor, announcing to the settlers on the "New Hampshire Grants" (as the Vermont territory was then called) the fact that henceforth they were to be under New York jurisdiction.[1]

§ 3. *Discontent at the King's Decision.* The king's decision was anything but welcome news to the dwellers on the Grants, who, almost without exception, were of New England birth, a large number having come from Connecticut, and many from Massachusetts; and they were both accustomed and attached to the democracy in politics of those colonies. New York, on the other hand, was aristocratic and semi-feudal in spirit. The religious, social and political institutions of the two sections were unlike,[2] and

[1] The claim of New York was based on the charter granted to the Duke of York in 1664, in which the duke was given "all the lands from the west side of Connecticut river to the east side of Delaware bay." Hiland Hall points out that in the charter in the library at Albany, the word "river" is not found after "Connecticut." See his address before the New York Historical Society, note no. 3, p. 15.

[2] The dominant religious sentiment among the Vermont settlers was that of Congregationalism. Socially and politically, the people were extremely democratic. In the constitution adopted in 1777, not only was slavery formally prohibited, but the right of suffrage was given to "every man of the full age of twenty-one years," upon the sole condition of a year's residence in the state.

almost the only bond between the two was that of a common ancestry in Great Britain. Even this bond was qualified by the presence of the large Dutch element in the population of New York.

But the settlers would doubtless have accepted the decree of the king—reluctantly it is true, yet without serious opposition—had the title to the lands which they had purchased from Governor Wentworth remained undisturbed. The great mass of settlers bought their lands, either directly from the governor or through intermediaries, in entire good faith. Holding titles from the representative of the king whose seat of government was nearest them, they supposed the effect of the king's order[1] in council was to be merely a change of jurisdiction, carrying with it the right to make future grants of land, but in no way affecting the previous grants of Governor Wentworth. In this they were sorely disappointed, for the New York executive began at once to make grants both of land which had not been granted by Governor Wentworth and also of that which had been granted; and this policy was continued by all the executives of the province, despite an order from the king in 1767 commanding temporary cessation, until over 2,000,000 acres had been disposed of. These grants yielded fees to the governor of over $65,000, while the secretary of the province, the clerk of the council, the auditor, the receiver-general, the attorney-general and the surveyor-general, also received liberal fees. Indeed, the animus of the New York governors seems to have been very largely the desire to put money into their own purses and those of their official subordinates. The land in many instances was sold in large tracts, with the evident purpose of establishing manorial estates similar to those which lined the

[1] The order of the king in council had announced the west bank of the Connecticut "to be" the boundary between the provinces of New Hampshire and New York. The settlers insisted that retroaction could not fairly be authorized by it.

Hudson. The settlers under New Hampshire charters, it should be said, were permitted to have those charters confirmed by the New York officials, and a considerable number of those living on the east side of the Green Mountain range paid a second and much larger fee.[1] On the west side of the range, where more extensive purchases had been made from the New York government than on the east side, and where the friction between the settlers and the king's officers was consequently more irritating, little disposition was shown to comply with any regulations or conditions promulgated from New York.

Not only were the patent fees charged by the New York officials higher than those of Governor Wentworth, but the quit-rent, payable to the crown, was two shillings and sixpence for every hundred acres, while that of Governor Wentworth was but one shilling, and this was not to be demanded until the expiration of ten years from the date of the charter. During the first ten years the only rent exacted by the New Hampshire governor was that of an ear of Indian corn, paid yearly. Its purpose was merely to remind the settlers of the allegiance they owed to the province of New Hampshire and the king.

§ 4. *Opposition to New York Authority.* Such was the situation in the Grants at the beginning of the decade immediately preceding the Revolution. New York attempted, as well as it could, in view of the distance from the provincial capital, to govern in its own centralized and aristocratic manner. The settlers had received from their New Hampshire charters the right to organize themselves into towns, and exercise almost unlimited authority over local affairs,

[1] The fees charged grantees by Governor Wentworth were nominal. For a township they were about $100. Williams' *History of Vermont*, vol. ii, p. 19. Those charged by the New York officials were, in total, $90.25 per thousand acres, or about $2,000 for a township.

which, in fact, were the only affairs in which they could be particularly interested. The demand that the New Hampshire charter be confirmed suggested much inconvenience and the payment of a not inconsiderable sum of money. In many cases, too, land held by these charters was granted again before it was possible to have the latter confirmed. The result was inevitable. A spirit of resistance soon showed itself, under the leadership of a few men like Ethan Allen, who, we may readily suspect, found keen enjoyment in the situation. When the claimants under New York charters demanded land already occupied, they met scant courtesy, and were pointedly invited to depart. Suits of ejectment followed, and in a test case heard at Albany[1] the New Hampshire charters were refused as evidence and declared void; a verdict was given for the plaintiff, and a writ of possession issued. The sheriff, however, was unable, even with a large posse, to execute the writ, and the "Bennington mob" was master of the situation.

While the rebellion was successfully maintained on the west side of the mountains, on the east side the New York government was established in both Cumberland (now Windham) and Gloucester (north of Cumberland) counties, in the form of courts. But even on the east side the obedience to New York was to a great extent perfunctory. The opposition to the government of that province was carried on in the towns on both sides of the mountains by committees of safety, and conventions for conference were held at intervals. The revolt was well under way when the war broke out. The "Westminster massacre," in which ten men were wounded, two mortally, occurred on March 14th, 1775, and was occasioned by the interference of the people with a

[1] That of Small *vs.* Carpenter, June, 1770. See Z. Thompson's *Civil History of Vermont*, part ii, p. 21. See further the bill of exceptions, Hiland Hall's *Early History of Vermont*, appendix no. 6, p. 481.

session of the court held under the usual New York authority. Doubtless the motives of the rioters were somewhat mixed, but that the dislike existing for royal courts was intensified by the fact that the Cumberland county court had its immediate origin in New York, can hardly be questioned.

§ 5. *Independence Announced.* The sentiment in favor of separation from New York grew rapidly, and in a convention held at Westminster it was voted, on January 15th, 1777, "that the district of land commonly called and known by the name of New Hampshire Grants be a new and separate state, and for the future conduct themselves as such." At this convention a committee was appointed to draft a declaration of independence, which was published a few weeks later in the *Connecticut Courant.* A convention at Windsor in the following July adopted a constitution and appointed a committee of safety to assume charge of affairs until the officers called for by the constitution could be elected. The constitution was not submitted to a vote of the people, the exigencies of the time making it desirable that it be put into force at once. In this decision of the leaders of the revolt, their supporters, who numbered by far the greater part of the inhabitants of the Grants, acquiesced without protest. They appear to have reposed the utmost confidence in the discretion and disinterestedness of their representatives. The promulgation of the constitution was followed, on March 3rd, 1778, by the election of a legislature, which met for the first time on the 12th of the same month.

Efforts to obtain recognition from Congress and admittance to that body on the same footing as that on which the thirteen colonies stood were at once made. Naturally, New York made strenuous objections, and the hopes of the new state were not realized for the time. Yet Vermont bore an honorable part in the war, and but for her exposed position

would doubtless have contributed still more to the cause of the colonies. Occupying the highway from Canada to New York, the state was peculiarly liable to suffer from British depredations, to protect her from which nothing was done by the Continental army. Vermont was, in fact, left to shift for herself, and she did so by coquetting, through a few of her leaders, with the British commander in Canada. From the early fall of 1780 until the close of the war, this small coterie of leaders kept the British officer in the fond hope that the people of the section would repudiate the cause of independence and acknowledge the royal authority.[1] To the masterly skill of Ira Allen in conducting the negotiations of this episode is due their complete success. It was a delicate business, and was misunderstood at the time by the adherents of the colonies; but I cannot see wherein the slightest ground for suspicion of the motives entertained by Allen and his confreres is to be detected. Their course was one dictated by the instinct of self-preservation, and it accomplished its purpose remarkably well, without compromising the cause of either the settlers or the colonies.

The end of the war found the little state intact; but New York still claimed the territory, and there was a sufficient number of its partisans in the southeastern part of the state to cause serious disturbances. Moreover, a design had been under consideration between New Hampshire and New York of dividing the territory of Vermont between them. The wise and energetic policy of the Vermonters, however, was equal to these emergencies. Vermont throughout this period was a sovereign state, for its will was law. It had established a postal service, which connected at Albany with the service of the United States; it had au-

[1] For the facts of this notable incident of the war see the Haldimand correspondence, *Governor and Council of Vermont*, vol. ii, p. 396, and Ira Allen's *History of Vermont*.

thorized the coining of copper coins; it had fixed standards for weights and measures; it had passed a naturalization act, and it had come to an understanding with the Canadian government regarding commerce. Its sovereignty had been further asserted and tested in a more vital way: bills of credit to the amount of £24,155 were issued in 1781, and a year later were redeemed with scrupulous fidelity. The territory was now filling up with desirable settlers, and, on the whole, the people were well contented.

§ 6. *Admitted to the Union.* The advantages of being in the Union, however, were well understood, and the only obstacle to admittance was New York. When an element in the latter commonwealth (foremost among whom was Alexander Hamilton) at length manifested a disposition to recognize the fact that the territory east of Lake Champlain could not be retained, the Vermont people were ready to respond. In 1789 commissioners were appointed by the two governments to negotiate terms of settlement, on the basis of which New York would support the application of Vermont for recognition as a commonwealth of the Union. In 1790 the commissions agreed that Vermont should pay the sum of $30,000 in Spanish silver as compensation to those who had purchased lands from the New York government, and this sum was to extinguish all rights under New York titles. Vermont appropriated the money in October of 1790. On January 10th, 1791, a convention adopted the Constitution of the United States, and on March 4th, of the same year, the state, by act of Congress, was admitted to the Union.

§ 7. *The Nature of the Controversy.* The time has passed for discussing the ethics of this struggle between New York and the settlers on the New Hampshire Grants. The event carried with it its own justification. The revolt from New York succeeded; that fact is sufficient proof that there was essential justice in the claims of the settlers. It was, in fact,

a struggle very similar to that which the colonies in union carried on with Great Britain. Legally, neither the colonies nor the settlers on the Grants could justify their positions and acts; but in both cases social forces were at work which burst the legal bands, in order to form new bands more suitable to the existing facts. While the people of the colonies, as a whole, were endeavoring to create a new state, through the promptings of a growing national consciousness, the settlers on the Grants were striving to secure for themselves a local government of the democratic type to which they had become accustomed in the New England colonies. Had the British government better understood the New England character, it would have allowed the government of New Hampshire to extend itself over the disputed territory. There is reason to believe that the king confirmed the jurisdiction of New York in the hope of repressing the democratic spirit.[1] A policy of repression was ill-adapted to any portion of the English-speaking inhabitants of America, and in seeming to adopt it toward the Vermont settlers, the king precipitated a struggle which perhaps would have been inevitable, even had greater discretion been shown by the New York governors as to the New Hampshire charters.

What the effect of the continuation of the government of the Grants by the province of New Hampshire would have been, is a subject for speculation, which would be less fruitful than interesting. Had one commonwealth of the Union instead of two resulted, it is possible that the people of Ver-

[1] In one of Lieutenant-Governor Colden's letters to the British board of trade, he says: "The New England governments are founded on republican principles, and these principles are zealously inculcated on their youth, in opposition to the principles of the constitution of Great Britain. The government of New York, on the contrary, is established, as near as may be, after the model of the English constitution. Can it be good policy to diminish the extent and jurisdiction in his Majesty's province of New York to extend the power and influence of the others?" *Colonial History of New York*, vol. vii, p. 565.

mont and New Hampshire would have secured an organ for local government, more suited to assist them in promoting their material prosperity and protecting personal rights than are two commonwealth governments. It is not to be denied that the smaller commonwealths labor under the load of a certain amount of particularism. But, whatever reasons may suggest themselves why the retention of Vermont by New Hampshire would have resulted happily for the people of both, it can hardly be admitted that the people of either New York or Vermont would have gained substantial benefit through a permanent extension of the New York line eastward to the Connecticut river. On the contrary, it must be said that both have profited by the separation—Vermont, by obtaining a government and legislation wholly acceptable, New York, by being relieved from a part of her too great governmental responsibility.

CHAPTER II. TAXATION UNDER NEW YORK.

§ 1. *Town Taxation.* The period from 1760 to 1777 may be called that of New York jurisdiction, although, as we have seen, the hold of that province on the Grants did not begin until 1765, and was wholly nominal after the war began. The controversy between the settlers and New York and the doubtful character of the titles bought from Governor Wentworth operated to discourage immigration, even before hostilities put a check to the freedom of movement existing in the colonies up to 1775. The towns were small, and were entirely devoted to agriculture. Taxation was almost exclusively for local purposes, and at first it was mainly in the form of levies on the proprietors' "rights" for the purpose of paying the cost of surveying the townships.[1] The proprietors' meetings were for a time more important than town meetings, which were authorized by the New Hampshire charters. These proprietors' meetings were held quite as frequently at some point in Massachusetts or Connecticut, where the proprietors were living, as in the townships granted by the charters. Gradually, however, the rights were sold, and a part of the proprietors themselves located in the townships.

Taxes were levied on the rights not only to pay for the

[1] Each town chartered by the New Hampshire governor was divided usually into sixty-eight rights. Five hundred acres, or two rights, in each township were retained by the thrifty governor, while one right each was given to the Society for the Propagation of the Gospel in Foreign Parts, to the Church of England for a glebe, to the town for the first settled minister, and to the town for the benefit of schools. The remaining rights went to the purchasers. See for the form of a New Hampshire charter, Z. Thompson's *Civil History of Vermont*, part ii, p. 224.

expense of surveys and other work connected with the division of the land, but many of the other needs of the communities were provided for in the same manner. Thus, in the record of a proprietors' meeting for the township of Middlebury, held in March, 1764, the following item[1] occurs:

> Voted to raise 2s. on each right, and give the same to any man or men who shall, the ensuing summer, clear a cart road from the road last fall cut from Arlington to Crown Point, viz., from about ten to twelve miles beyond where No. 4 road crosses Otter creek; said road to be cleared on the east side of said creek, through the townships of Salisbury, Middlebury and New Haven.

The first proprietors' meeting in the township of Bennington of which a record now exists, held on February 11th, 1762, appointed a committee "to look out a place to set the meeting-house," and later the meeting-house was built, partly by individual contributions and partly by a tax on the proprietors.[2] Proprietors' meetings were frequent in all the townships for some years after settlements had been begun; but the towns were organized as soon as there was a sufficient number of inhabitants. Then occurred a transition of general local taxation to the town government. The action of the people of Bennington in reference to schools illustrates the tendency. In January, 1763, the proprietors voted a tax for building a school-house, but in the following April the inhabitants, in town meeting,[3] taxed themselves to support schools "in three parts of the town."

The basis of town taxes in these early settlements is a subject for conjecture, as each town was free to choose its own method, and the local records give few hints upon the matter. Land was undoubtedly the main reliance, as it was in the

[1] Samuel Swift's *History of Middlebury*, p. 150. It does not appear that this road was ever cleared.

[2] Z. Thompson's *Gazetteer of Vermont*, p. 14.

[3] *Ibid.*, p. 14.

proprietors' taxes.[1] In the rude condition in which all the towns were during this period, it is probable that there were very few taxes for general purposes.

§ 2. *Highway Labor.* One of the first acts of New York in reference to the Grants was "An Act for Laying out, Regulating and Keeping in Repair Common and Public Highways," passed in 1766, and intended particularly for Cumberland county.[2] By this act commissioners and surveyors were elected, and the inhabitants through or near whose lands the roads were run cleared and maintained them, under direction of the surveyors. The inhabitants were compelled to work "six Days in the Year, or so many Days as will be sufficient for keeping the said Roads in Repair, under the Penalty of Four Shillings for each Day every Person shall neglect or refuse such Service." The work of a team and a man to manage it was equal to three days' work of one man. Constables were authorized to levy by sale and distress on the property of persons neglecting to serve who also neglected to pay their fines. This act expired by limitation on January 1st, 1771, but a year later (February 26th, 1772,) it was revived and continued to February 1st, 1777. It became the model of the act passed a little later by the Vermont legislature, which existed without important modification of principle almost to the present time.

A similar act[3] was passed for Charlotte county (in the northwestern part of the present commonwealth, immediately east of Lake Champlain) in March of 1772, and in 1773 the

[1] Bennington, among its first acts, voted "to send a petition to the General Court of New Hampshire to raise a tax on all the lands in Bennington, resident and non-resident, to build a meeting-house and school-house and mills, and for highways and bridges." The sanction of that province was not, however, regarded as necessary for the taxes imposed for these purposes.

[2] *Laws of New York*, Van Schaack's edition, 1691–1773, chap. mdccix, p. 487.

[3] *Ibid.*, chap. mdcclxxii, p. 702.

provisions of the act for Cumberland county were extended to Gloucester county, which lay to the north of Cumberland, on the east side of the mountains, and was at this time but thinly settled. The southwestern part of the Grants was in the "unlimited county of Albany," and its highways were supposed to be managed in accordance with a law similar to those for Cumberland and Charlotte counties. It was in this vicinity, however, that the opposition to officials commissioned by New York was strongest, and here the towns, as a matter of fact, did about as they pleased as to highways.

Highway taxes in the form of labor were the noticeable feature of contribution for the support of government during the New York regime. Good roads were greatly needed, and the energy of the communities, as political organizations, was directed chiefly to clearing and maintaining them. The New York government supplied for this work a system of administration, which, perfected by long years of experience in both England and this country, appealed to the good sense of the settlers. For this at least the inhabitants of the Grants had reason to be grateful to their far-off rulers.

§ 3. *County Taxation.* The earliest act authorizing a tax for the Grants not payable in labor was that of 1772,[1] for erecting "a more convenient court house and goal" for Cumberland county. This act made provision for the election of supervisors and other officers. The supervisors were authorized to

> raise, levy and collect upon and from the Freeholders and Inhabitants of the said County a Sum not exceeding Two Hundred and Fifty Pounds, to be applied towards the erecting and building such Court House and Goal, in and for the said County, and that the same shall be raised, levied and collected in the same Manner as the necessary and contingent Charges of other counties of this Colony are by Law directed to be raised and levied.

[1] *Laws of New York*, Van Schaack's edition, 1691–1773, chap. mdxl, p. 700.

The New York practice was for the supervisors to estimate the expense of the county and to transmit to the town officers the proportion for each town. The tax was then levied on the general property of the inhabitants. It was essentially the same system that is still in vogue in that commonwealth for levying county charges.[1] The act also provided for the annual election thereafter, on the third Tuesday of May, by the freeholders and inhabitants of the towns and districts, of supervisors, assessors, collectors and a county treasurer. Section 5 made this general provision for future county charges:

> That the public and necessary Charges of the said County of Cumberland shall be raised, levied and defrayed in the same manner as the public and necessary Charges of the other Counties of the said Colony are by them directed to be raised and defrayed.

At the same session of the Assembly an act was passed extending to Charlotte county the general laws of the province regarding taxation.[2] Cumberland and Charlotte counties were thus placed on the same footing as to taxation with the other counties of New York. Gloucester county was too sparsely settled to need a special act. The tax of £250 for erecting the Cumberland county court-house proved to be insufficient, and an additional levy of £250 was authorized in 1773.[3]

That the people were somewhat backward in complying with the laws relating to all county charges is indicated by a law of the following year (1774) authorizing justices of the peace, in case a town or district failed to choose a supervisor, assessors or collectors at the proper time, to nominate such officers to the county court. Persons thus nominated were

[1] See J. C. Schwab's *General Property Tax in New York*, pp. 50–65.

[2] *Laws of New York*, Van Schaack's edition, 1691–1773, chap. mdlxii, p. 705.

[3] *Ibid.*, p. 803.

obliged to serve or pay a penalty of £10. Such a tendency would be characteristic to a certain extent of a newly-settled section under any circumstances, but in the Grants the strained relations with the New York government undoubtedly aggravated it.[1]

§ 4. *Resumé of the New York Period.* To sum up the history of the Grants previous to the formal declaration of independence by the inhabitants, it may be said that at first local expenses were met by levies on the township rights; later it is probable that the taxes were imposed on the inhabitants in proportion to their property, of which land was the main element, although, in the absence of recognized law, no rule but that of convenience was followed; later still, in those parts of the Grants which accepted New York jurisdiction, the special acts for the counties regarding the making and maintaining of highways were looked to as governing that important subject; two special taxes of £250 each were raised on the property of the inhabitants of Cumberland county for building a court-house, and finally the general laws of New York for imposing county taxes on general property were applied to Cumberland and Charlotte counties.

As to quit-rents, New York probably received very little from the people of the Grants, as a report[2] on the province made to the British government in 1767 contained this rather despondent statement:

The owners of Lands in this Province have ever been so backward in the payment of their Quit Rents that the sum collected annually has never been sufficient to pay off the above mentioned salaries,

[1] B. H. Hall, in his *History of Eastern Vermont* (p. 195), says: "The laws passed by the New York legislature for the benefit of Cumberland county, although wisely planned, were not readily executed. Where a direct and palpable benefit was to ensue from their observance they were obeyed, but when anyone chose to break them his disobedience was but little regarded, and was still more rarely punished."

[2] London document no. 40, in *Documentary History of New York*, vol. i, p. 705.

and some other orders which were formerly granted to different people, by the Lords of the Treasury.

The salaries mentioned amounted to £460, with five per cent. on the sums audited, and a few other charges. If the quit-rents of the whole province were insufficient to pay this sum, it is fair to infer, in view of the distance from the seat of authority, and the open dislike of the inhabitants to New York officials, that the portion derived from the Grants was altogether insignificant. The arrearages in quit-rents throughout the province at this time were £18,888 16s. 10d.[1] The rents, if any were received from the Grants, would come only from holders of New York charters, and the number of these among the actual settlers was comparatively small.

[1] *Documentary History of New York*, vol. i, p. 705. The following extract from the report of a committee of the New York constitutional convention of 1777 on matters relating to the Grants would indicate that the quit-rents were in a measure burdensome to the settlers. It is probable, however, that the latter were ready to make as much political capital as possible out of an exaction which, it is true, was odious to them in principle, but to which they paid very little attention. The report said: "The fourth general inconvenience which furnishes the broadest ground of clamor and complaint is the exaction of heavy *quit-rents* for the lands within said counties of Cumberland and Gloucester, which they consider an innovation upon the rights of mankind, for whose use such lands were given by a bountiful Providence without reservation, and which ought not, in their opinion, to be charged with taxes, other than for the general support and defence of the state and government." Notwithstanding these complaints, the new government of New York recognized the legality of quit-rents as they existed under the provincial government.

CHAPTER III. THE VERMONT CONSTITUTION.

§ 1. *Its Origin.* The constitution of Vermont, drafted in 1777, and put into force early in the following year, was based on that of Pennsylvania, which was adopted in 1776. The latter, which had its origin in the "Frame of Government" granted by William Penn, by the authority of Charles II, in 1682, had been recommended to the people of the Grants by Dr. Thomas Young, a citizen of Pennsylvania, who took a lively interest in the struggle against New York. Ira Allen had a leading hand in the revision of the Pennsylvania document.[1]

§ 2. *References to Revenue.* The references to revenue in the Pennsylvania document were transferred bodily to the Vermont constitution. One of these was Article VIII of the Declaration of Rights,[2] which became Article IX of the Vermont declaration; and the forty-first section of the constitution proper of Pennsylvania became the thirty-seventh section of Part II of the Vermont constitution. The first read as follows:

That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expense of that protection, and yield his personal service, when necessary, or an equivalent thereto; but no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives; nor can any man who is conscientiously scrupulous of bearing arms be justly compelled thereto, if he will pay such

[1] *Governor and Council*, vol. i, p. 83.

[2] Poore's *Charters and Constitutions*, vol. ii, p. 1541.

equivalent; nor are the people bound by any law but such as they have in like manner assented to, for their common good.

Section 37[1] was:

No public tax, custom or contribution shall be imposed upon, or paid by, the people of this state, except by a law for that purpose; and previous to any law being made to raise a tax, the purposes for which it is to be raised ought to appear evident to the Legislature to be of more service to the community than the money would be if not collected; which being well observed taxes can never become burthens.

Section 30 of the Vermont constitution, also taken bodily from that of Pennsylvania, was in these words:

All fines, license money, fees and forfeitures shall be paid according to the direction hereafter to be made by the General Assembly.

A peculiar department of the government established, on the Pennsylvania model, by the original constitution of 1777 and continued until abandoned in 1870, was the Council of Censors, composed of thirteen members chosen by the people once in seven years, whose chief duty was "to inquire whether the constitution has been preserved inviolate in every part," and to call constitutional conventions when they thought proper. "They are also to inquire," continues the article, "whether the public taxes have been justly laid and collected in all parts of this commonwealth—in what manner the public moneys have been disposed of—and whether the laws have been duly executed." The Censors were thus a department of criticism, differing little in this respect from the judiciary, except that the Council was enjoined to take the initiative in pointing out unconstitutional acts. Unlike the judiciary, however, the Council had no power to enforce its conclusions. It was in its nature very much like the railroad commissions of recent years—notably that of Massachusetts—whose function has been to lay bare to the public gaze

[1] *Governor and Council*, vol. i, p. 102.

abuses of trust by railroad corporations. It is highly probable that the Council of Censors did the commonwealth a service which was more real than apparent. It at least left a record of the constitutional progress of the people, and in its reports are some valuable hints respecting the financial history of nearly a century.

§ 3. *Amendments.* All the above references to the subject of revenue were taken from the Pennsylvania constitution without verbal change. The provisions embodied in them caused no dissatisfaction, and when the constitution was remodeled, in 1786, they were all retained except that referring to fines, license money, etc. The revision, however, made a number of changes in arrangement and phraseology. Section 37 of Part II was united with Article 9 of the Declaration of Rights, and the last clause of the section, beginning with the words "which being well observed," was dropped, doubtless on account of its superfluous nature. In place of the words "of his legal representatives," was now used the phrase "of the representative body of freemen." In this revision there was also an additional provision regarding taxation, namely, that of Section 9 of Part II, which runs as follows: "The representatives so chosen (a majority of whom shall constitute a quorum for transacting any other business than raising a state tax, for which two-thirds of the members elected shall be present) shall meet on the second Thursday of the succeeding October," etc. This section was afterwards extensively amended, but the provision that two-thirds of the members constitute a quorum for voting commonwealth taxes was retained. Two legislative branches were substituted for one by the third article of amendment, adopted in 1836, and the following provision was included in the amendment: "That all revenue bills shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other

bills." The clause is a striking illustration of the persistence of principles of political science long after the conditions which gave them birth have departed. The reason why the origination of bills of revenue should be confined in the British parliament to the lower house is obvious; in the commonwealths of the United States, in which each of the legislative branches is directly elected by popular suffrage, it has no existence in facts.

§ 4. *Theories of Taxation.* Article IX of the Declaration of Rights contains the theory of taxation adopted. It is the "exchange" or "protective" theory. A member of society is protected in "the enjoyment of life, liberty and property;" therefore he is bound to contribute his proportion toward the expense. The article has been construed to justify a poll-tax as a contribution for the protection of life and liberty, and a property tax for the protection of property.[1] That this theory was accepted without question when the constitutions of Pennsylvania and Vermont were adopted, was quite natural. It was a part of the prevailing social contract theory of the state, which reduced the functions of the latter to the simple task of suppressing violence and fraud.

The concluding clause of Section 37, in which it is asserted that the purposes for which taxes are raised "ought to appear evident to the legislature to be of more service to the community than the money would be if not collected," was hardly intended by the framers of the constitution to be a contradiction of the exchange theory, yet in substance it is. It expresses concisely the generally accepted modern theory of taxation—that the justifiable purposes are any social wants felt in common by the members of a community. The presence of this supplementary theory in the

[1] *Journal of Council of Censors*, 1869; report of committee on taxes and expenditures, p. 36.

constitution, has probably operated to secure for the taxing power a liberal judicial interpretation.[1]

[1] The constitutionality of special assessments was affirmed in the case of Allen *vs.* Drew, 44 Vt., 174. Such assessments were declared to be not under the right of eminent domain, but in "the exercise of the right of taxation inherent in every sovereign state." In Barnes *vs.* Dwyer, 55 Vt., 469, it was held that special assessments levied by city or village authorities "for so much of the expense thereof [sidewalks] as they *shall deem just and equitable*," was unconstitutional because there was no fixed standard for the assessments. The court (Veazey, J.) held that all assessments must be strictly in proportion to benefits received. On taxes for aiding railroads see Town of Bennington *vs.* Park *et al.*, 50 Vt., 178.

CHAPTER IV. THE GRAND LIST.

§ 1. *The Basis of Taxation.* Almost the entire revenue of Vermont, commonwealth and local, has, from the first, been derived from taxes levied on the "grand list," the leading element of which has been general property. This chapter must therefore virtually be an examination of the general property tax as it has appeared in an essentially rural community for the space of over one hundred years. Without prejudging the case, but with the purpose of stating in advance what will appear further on from the facts themselves, it may be said that, however excellent general property may be as a theoretical measure of ability to contribute to the public treasury, practically it has been found to be very defective in Vermont. The history of the grand list will be seen to bristle with attempts—for the most part unsuccessful—to bring to light certain kinds of property which in their nature are easily concealed and are therefore convenient subjects for evasion. In this respect the experience of the commonwealth has been different from that of other commonwealths only in being less pronounced than in some, on account of the absence of large cities, in which, as is well known, opportunities for avoiding personal property taxes are greater than elsewhere.

§ 2. *The Act of 1778.* This was the first act aimed at securing an appraisal of property for purposes of taxation after the state's independence had been declared.[1] It was called

[1] *Laws of Vermont*, 1779, p. 295, of Slade's *State Papers*. No copy of the laws of 1778 is known to be in existence. The laws of that year of a permanent character were embodied in the printed copy of those of 1779.

"An Act Directing Listers in their Office and Duty." That it found its model in the laws of Connecticut is quite evident;[1] indeed, the "Connecticut law book" was the source whence the early legislators drew the greater share of their legal wisdom—a fact not in the least surprising when we remember that Connecticut had been the former home of the leading men of the new state. Springing full grown from the head of the Connecticut law, it removed the necessity of adopting tentative acts of taxation, and, through mistakes and costly experience, of building up an acceptable system. The Connecticut laws were perfectly familiar to the greater part of the inhabitants of Vermont, and the social life of the latter was so much like that of Connecticut that they fitted the younger community nearly as well as the older.

The law was a listing system. Under its provisions the listers warned the inhabitants some time in May annually, to give in writing "a true account of all their listable polls, and all their rateable estate," belonging to them on June 20th, "particularly mentioning therein all such things as are in [this] act hereafter expressly valued." The lists were signed and given to the listers by July 10th. The listers had power to add to the lists, according to their judgment, a value for the articles not expressly valued. From August 10th until September 25th they went over the combined list carefully, and the "polls and rateable estate" not appearing in it were fourfolded and added. The burden of proof that the property thus assessed did not belong to a person on June 20th was on that person. The fourfolding process was also applied to the ratable estate and polls of persons who had given in no lists. To put vigor into this part of the administration, it was provided that one-half of the amount arising from these fourfolds should go to the listers, for whom exe-

[1] All the features of the Connecticut system, including the poll and "faculty" taxes, were adopted by Vermont.

cutions were granted in case of refusal by the collectors to turn over the money; and in case the collectors had no estate their bodies were held until the money was produced. The listers were commanded to grant relief to persons "overcharged in their lists," when the property in question did not belong to the persons on June 20th, or when it was left out of the list by accident. In case the listers did not consider the applicant worthy of relief, an appeal to a board, consisting of an assistant, or a justice of the peace, and two selectmen, could be taken. This board could grant "such relief as they shall judge just and agreeable to this act," but to secure legality to the proceedings it was necessary that two or more of the listers be notified to be present at the meeting. If the listers neglected to demand of any person his list within the legal time, they were permitted to demand it before September 20th; and in case of neglect to return the list within five days, they made up a list to the best of their judgment, and from their decision in such cases there could be no appeal.

Specific rates at which the greater part of the various elements making up the grand list were to be entered were provided. All male persons between the ages of sixteen and sixty years, except ministers, the president and tutors of the state college, "annual school-masters," and students until the time for taking their second degree, were rated at £6, but provision was made for relieving from taxes persons incapacitated by sickness or otherwise. The ratable estate was "set in the list" at these rates: Every ox or steer four years old or over, £4; every steer or heifer of three years, and every cow, £3; every steer or heifer of two years, £2; every steer or heifer of one year, £1; every horse or mare of three years or over, £3; all "horse kind" of two years, £2 each; all horse kind of one year, £1 each; all swine of one year or more, £1 each. Persons having money on hand or due to

them "over and above all debts charged thereon," were required to enter it at the rate of £6 for every £100, and whenever "the listers shall suspect any person has not given in the full sum of money on hand, or due as aforesaid, the listers are hereby empowered to call each person or persons before them, there to give in such lists on oath." The oath thus was administered only in case of suspicion that too small an amount had been returned, and it was used only in reference to money on hand or due. The declaration under oath was conclusive. Land which had been improved one year, either for pasturage, mowing or plowing, or was stocked with grass, and which was enclosed, was listed at ten shillings per acre. Ministers and the president of the college were not only exempted from being listed for their polls, but they also enjoyed the same immunity as to their entire estate situated in the towns in which they resided.[1] Lands sequestered for schools "and other pious uses," also, were exempted. Attorneys-at-law were set in the list "for their faculty," those having the least practice at £50, and the others in proportion, "according to their practice." The listers were given full discretion in estimating the extent of the practice. All "tradesmen, traders, and artificers" were rated in the list "proportionably to their gains and returns." A clause in the act commanded the listers to rate "warehouses, shops, work-houses and mills, where the owners have particular improvement or advantage thereof," according to their judgment and discretion. The oath which all officers were obliged to take made the listers promise to "faithfully execute the office" and "do equal right and justice to all men." The total of the list was returned to the

[1] At this time no state college had been established; the provision for the exemption of its officers was made in the expectation, entertained even at that early and troublous time, of founding a state university. It was not until 1791 that the institution was chartered, and it did not receive students until 1800.

General Assembly each year, and towns failing to make returns were subject to doomage.

The act, it will be seen, was a close approximation to the general property principle, although the various kinds of property were specifically valued. The improved land alone was included in the list, for that alone had much value. Ordinary buildings, as dwelling-houses and farm-buildings, and tools, etc., were not included, and these were about the only exceptions in the nature of property generally owned in Vermont. Business buildings, from which an income could be expected, were particularly mentioned, and horses and cattle were carefully entered. Intangible personal property in the shape of money and debts due, after deductions for debts owed, was also included. Polls were listed, of course; they were a prominent feature of taxation in New England. The noteworthy element of the list was the income tax on attorneys, who were expressly called upon to contribute to the public fund in proportion to their faculty. The same principle was applied to traders and mechanics, whose "gains and returns" were taken as an indication of their faculty.[1]

[1] In its address to the people in 1786, the Council of Censors made the following vigorous but futile protest against the income tax: "But in apportioning the tax, this Council does not believe full justice has been done; all our towns are new, and a part of the most populous ones still uncultivated;—tradesmen of all kinds and men of genius are every where much wanted:—it must not certainly be therefore as 'good guardians of the people' that *faculties are rated*, and *unimproved real property*, and *articles of luxury*, *left without assessment*. In the opinion of this Council, visible property, in proportion to the real value, is the only fit subject for taxation (except the Legislature shall find it expedient to impose a small tax on polls, not minors, for personal protection); and every deviation from this rule, whether to exculpate one class of men, or to harrass another, is an error in government, and ought to be exploded [in] our future system of taxation." The inference is that the exemption of unimproved land from taxation was regarded as a piece of special legislation in the interest of land speculators. There was a strong sentiment at this time in favor of taxing such lands. If the "articles of luxury" referred to as exempt from listing were carriages, clocks, etc., the alleged injustice was corrected a few years later.

Such was the listing law adopted by the first legislature. It was well fitted for the existing conditions. Vermont at this time was a primitive community, possessing but a limited amount of wealth, and that mainly in the form of land and the appurtenances necessary for its cultivation—cattle, horses, etc. The general stock of property was tangible, almost the exact quantity owned by each person was known by his neighbors, and consequently there could be no evasion. Taxation on this mass of general property was just taxation, for it was founded on ability to pay. As General Walker says,[1] the New England people of the old stock were a saving people. Whatever was earned, beyond the necessaries of life, was turned into property, and presumably the most remunerative kind of property. Property thus became an index of abllity, and as such formed a just basis of taxation. Had it remained possible to ascertain, with reasonable certainty, the amount of property possessed by each person, the general property tax would have continued to form a just basis much longer than it did. But that was possible only in a community in which, as in Vermont at this time, all property, speaking roughly, was tangible and visible. As property in large part becomes differentiated into its more elusive forms, the general property tax is seen to enter upon the stage of weakness. The experience of Europe is certain to be repeated.[2] While Vermont retained the primitive character of a community struggling with few resources to conquer a wilderness, this tax was excellently adapted to its needs; when wealth took on new forms, its failure was as inevitable as it had been in Europe. Even at this time, poor as the state was, the general property tax was hardly regarded as all sufficient, and the "faculty tax"

[1] *The Bases of Taxation*, POLITICAL SCIENCE QUARTERLY, vol. iii (1888), p. 6.

[2] For a history of the general property tax in Europe, see Professor Seligman's *General Property Tax*, POLITICAL SCIENCE QUARTERLY, vol. v (1890), p. 43.

was invoked to reach the few who reckoned on their wits rather than their property for an income. In so far as the "faculty tax" became important, it was an arraignment of the inadequacy of the general property tax. But it was not important at first; its *raison d'être* was the fact that Connecticut, older and richer than Vermont, had it on her statute-book. General property and polls were the real bases of taxation in Vermont.

The law of 1778 formed the starting-point of the legislation of the succeeding forty years, and the revisions and amendments of that period have little significance aside from the light they shed upon the practical working of the law. Some reference to a few of the changes will, however, be necessary to indicate the trend of the legislation. Thus, in 1787, the rates at which different classes of property were listed were revised, and money on hand and debts due were placed at £20 for every £100.[1] At the same time the polls of the militia were exempted from listing. A deduction from the list for shorn wool and linen and towel cloth manufactured was allowed for a time, but in 1789 the provision was repealed.[2] In this year orchards of apple trees having not less than forty trees were exempted from taxation for twelve years.[3] In 1791 the ages between which male persons were listed on their polls were fixed at twenty-one and sixty, instead of sixteen and sixty.[4] Listable land from this time on was to be improved for two years, instead of one. In the same year (1791) attorneys were listed as traders and artificers had been—"proportionable to their gains, according to the best judgment and discretion of the listers"—the change consisting in discarding the minimum of £50. In 1795 it was provided that towns not represented in the As-

[1] *Laws*, 1787, p. 8. [2] *Ibid.*, 1789, p. 18. [3] *Ibid.*, p. 6.
[4] *Ibid.*, 1791, p. 266.

sembly, and having a list of less than $3330, were not to be included in the commonwealth list.[1]

A notable revision was made in 1797.[2] The rates adopted for the elements included in the act of 1787 were substantially the same, although now expressed in dollars and cents, instead of pounds and shillings. Polls were listed at $20 each, and improved lands at $1.75 per acre. Oxen of four years and over were put down at $10, instead of £3, and the other ages and varieties of cattle, etc., were rated accordingly. Money on hand and debts due were set at $6 for every $100. This was a return to the original law. "All licensed attornies, practitioners of physic or surgery, merchants, traders, owners of mills, mechanics, and all other persons who gain a livelihood by buying, selling or exchanging, or by other traffic not in the regular channel of mercantile life," were listed in proportion to their returns. It will be observed that the income idea was thus enlarged to suit the growing and diversifying business of the community. The catalogue of ratable estate, also, was enlarged by this act. Thus, section 2 provided that dwelling-houses, stores and shops valued at $1000 or under, and occupied or rented, be listed at two per cent. of their real value, and the same kinds of buildings valued at over $1000 at three per cent. The list of farm animals now included mules and jackasses. House clocks not made of wood were listed at $10; gold watches at $10, and other watches at $5.

Other changes made in the next few years were the following: In 1801 a deduction of $1 was made for every sheep, not exceeding twenty in number, shorn between May 10th and June 20th each year.[3] At the same time all persons were commanded to return to the listers the total number of sheep shorn each year. In 1802 it was enacted that

[1] *Laws*, 1795, p. 42. [2] *Ibid.*, compilation of 1797, p. 565. [3] *Ibid.*, 1801, p. 43.

the listers place in the list "every pleasurable carriage, waggons with spring seats excepted," at fifty per cent. of its real value, as estimated by themselves.[1] The rate was reduced to twelve per cent. in 1813.[2] An act of 1807 made the exemption of the polls of members of the militia from local taxes conditional on proper equipment, and officers, as well as the rank and file, were exempted.[3]

A significant act was that of 1809, by which it was sought to turn the screws down a little more tightly in respect to intangible personal property.[4] The reference to the latter in the act of 1797 had been brief; it was simply provided that money on hand and debts due, over and above obligations from the person, be set in the list at $6 for every $100. Now, however, the language of the statute became more specific and exacting. Persons having "money on hand, or money due, or obligations payable in money or cattle, or any kind or species of property (whether such obligations have become due or are payable at a future day) over and above the debts due from such person, shall have the same set in the list at the rate of six dollars for every hundred dollars." Such property was to be returned to the listers by all persons possessing it, and those neglecting to return the full ratable amount in their lists were assessed by the listers "in such sum as in their opinion would be equal to six per cent. on the amount such person has neglected to insert in his list." Those thus arbitrarily assessed received notification of the amount and were allowed a hearing by the listers if they felt themselves unjustly assessed. If they were not satisfied with the decision of the listers, an appeal could be taken to a justice of the peace and two or more selectmen; but when such an appeal was taken, it was necessary for the "ag-

[1] *Laws*, 1802, chap. lxvii, p. 113.
[2] *Ibid.*, 1813, chap. xc, p. 129.
[3] *Ibid.*, 1807, chap. lxxxiv, p. 106.
[4] *Ibid.*, 1809, chap. xliv, p. 41.

grieved" person to take an oath before the justice as to "the amount of money on hand, or due, and of obligations over and above what is due or owing from him." This act also provided that all property owned out of the commonwealth by listable persons be set in their lists.

A further piece of evidence that there existed at this time a disposition on the part of the taxpayers to avoid returning personal property is found in an act of 1811.[1] It prescribed for the printed form which had been used for making returns since 1797, a detailed statement of every item of property mentioned in that act. The form in use after 1797 had grouped cattle, horses, clocks, watches, money on hand, and assessments of attorneys, physicians, merchants, mechanics, etc., under the head of "other property and assessments." That this grouping had given rise to dissatisfaction, may be inferred from the change. The act also authorized a deduction from the lists of "parents, masters and guardians" of $20 for each minor equipped for military duty, and if the minor was a cavalryman, a further deduction of $13.50 for a horse was made. Musicians who were properly equipped were allowed the same exemption as had been accorded to officers and privates. An act of 1817[2] reveals a propensity of human nature which had become noticeable in the preceding years. Referring to the deductions from the lists of parents, guardians and masters for military duty, it says that no deduction shall be made until it has been proved to the satisfaction of the listers, that the equipments were the personal property of the parent, guardian or master, "and not borrowed for the express purpose of inspection." The discretionary power of the listers was complete on this point.

§ 3. *The Acts of 1819, 1820 and 1825.* The war of 1812 marked the beginning of a new era in the industrial life of the nation. Manufacturing had received a great impulse

[1] *Laws*, 1811, chap. cxii, p. 137. [2] *Ibid.*, 1817, chap. cxxx, p. 114.

through the hard necessities of the war, and industry was taking on a more varied form. Vermont shared to some extent in the change, and her hitherto exclusively agricultural character was sensibly modified. Moreover, the still greater industrial activity of the neighboring commonwealths of New Hampshire and Massachusetts affected her agricultural interests very favorably by affording constantly enlarging markets. It was a time, on the whole, of general progress and prosperity. It was inevitable, under these conditions, that more attention should be directed to the subject of taxation. A system which had undergone slight amendment since its adoption during the struggles against New York and Great Britain, could hardly be fully adapted to circumstances which, if not radically different from those of the first twenty-five years of the commonwealth's existence, were yet not the same.

This fact was clearly recognized soon after the war, and led to a series of acts relating to the grand list, the first of which was that of 1819.[1] Now for the first time triennial appraisals of all real estate but unimproved land were required. The former practice of listing improved land by the acre was thus definitely abandoned. In the work of appraisal three classes of real estate were distinguished. One included dwelling-houses, out-buildings, and lots of not over two acres, which were appraised at their value, "with due regard to the situation and income thereof," and listed at four per cent. Improved land formed the second class, and was listed at eight per cent. of its valuation. Mills, stores, distilleries, and all buildings used for manufacturing, were entered as the third class, at six per cent. Appeals from the listers' valuation could be made to the selectmen. Unimportant changes were made at this time in the rates at which cattle and horses were listed. This, as well as all the

[1] *Laws*, 1819, chap. i, p. 3.

preceding acts, provided that if the listers failed to make proper returns to the General Assembly, the towns were liable to be doomed to pay the amount due. An act of the same year[1] repealed all former acts exempting the estate of clergymen from being placed in the list.

In 1820 further changes were made in the law.[2] Thus, dwelling-houses, etc., were now listed at six per cent. The rates for cattle and horses were lowered to about two-thirds of those existing for the previous thirty years.[3] The most important provision of this act, however, was that ordering county conventions of town listers, for the purpose of equalizing the appraisals of real estate. This was the first act in Vermont authorizing equalizing boards, but from that time until 1882 they were a prominent element of the mechanism of taxation. Section 6 provided that a lister be elected by the listers of each town to attend the county

[1] *Laws*, 1819, chap. xiv, p. 26. [2] *Ibid.*, 1820, chap. i, p. 4.

[3] The rates at which different varieties of personal property were listed after 1819 were as follows:

	1819.	1820.	1825.
Ox, bull, steer, 4 yrs. and over	$10.00[a]	$5.00	$2.00
Bull, steer, cow, heifer, 3 yrs	6.00	3.00	1.25
Bull, steer, heifer, 2 yrs	5.00	2.00	.75
Horse, mare, mule, worth $25 or less	14.00[b]	8.00[b]	1.00
Horse, mare, mule, worth $25 to $75	.....	.....	3.00
Horse, mare, mule, worth over $75	.....	.....	6.00
Horse, mule, 2 yrs	7.00	4.00	2.00
Horse, mule, 1 yr	4.00	3.00	1.25
Stallion, 4 yrs. and over	150.00	150.00	75.00
Stallion, 3 yrs	50.00	50.00	30.00
Jackass	30.00	30.00	40.00
Sheep	.....	.....	.10
Brass clock or watch	10.00	10.00	3.00
Gold watch	10.00	10.00	4.00
Other watch	5.00	5.00	1.00

[a] Oxen alone were placed at $10. Other kinds of cattle over three years old were at $6.
[b] No classification as to value.

meeting, which was held on the third Tuesday of the following September (in 1821), and thereafter triennially. It was specifically stated in the act that county taxes must be assessed on the corrected lists; town taxes could be assessed on the original lists. A further equalization, between the counties, was made by a committee of the General Assembly, consisting of one member from each county. This equalization, in the language of the statute, was to "render the estimation and valuation of such real estate, in the said several counties, just and equitable." An act of 1823 made it obligatory to assess all taxes in the list as corrected by the equalizing committee of the General Assembly.[1]

But the patching process proved inadequate. The appraisal of real estate had been reduced to a fairly satisfactory status, but there still remained the troublesome questions of money on hand and debts, and of the income of attorneys, physicians, merchants, mechanics, etc. On these rocks the old law, with all its amendments, had split. In 1822 the General Assembly doomed some twenty or thirty towns, and in the following year about the same number felt the stern sentence of the "wisdom and virtue" of the commonwealth. The Council of Censors voiced the general sentiment by declaring:

> We find that, although attempts have from time to time been made to equalize taxation, still it is to be feared that complaints are justly made, both as to the equality of the mode of assessment and as to the uniformity of the execution of the laws on this subject.

The dissatisfaction at length led, in 1825, to a revision and consolidation of the listing laws.[2]

The act of this year was the most elaborate and comprehensive law that had been enacted since the birth of the commonwealth. While being a growth on all the acts which

[1] *Laws*, 1823, chap. xxiii, p. 20.

[2] *Ibid.*, 1825, chap. ix, p. 10.

had preceded it, it contained several new features, and in its minutiæ it was thorough-going. Its operation may be summarized as follows: Males between twenty-one and sixty years were listed at $10 each on their polls in the towns in which they resided on April 1st. The exceptions to this provision were college students, sick persons (at the discretion of the listers), and persons subject to military duty. The last-named class was wholly exempt from commonwealth poll taxes, while those who were properly equipped were exempt from all except highway taxes,[1] and a further deduction of $3 was made for each cavalryman's horse. Deductions of $10 were made from the lists of parents, guardians and masters for each minor equipped for the infantry service or a band, and of $13 for each minor equipped for the cavalry. The usual exemption of lands "sequestered and improved for schools and other publick, pious and charitable uses," was made. Real and personal property in the hands of tenants was placed in the lists of both owner and tenant, who were jointly and severally liable for the taxes.[2]

The rates for personal property were less than one-half their former average. Money on hand on April 1st and debts of all kinds above those due from the person were listed at $6 for each $100. Bank and insurance stock was

[1] This was construed in 1828 to apply only to highway taxes payable in labor. *Laws*, 1828, chap. viii, p. 7. The militia law of 1829 made the exemption extend to taxes, except those for making and repairing highways and bridges, whether payable in money or labor, and those for the support of schools. There were numerous changes of policy in reference to militia exemptions, justifying, it would seem, the remark of the Council of Censors in its address of 1835 in advocacy of two legislative branches: "That legislation has been fluctuating, hasty, and improvident, and unnessarily multiplied, will be apparent to any one who will look into the statutes; else, why so many *additional*, *amendatory*, *explanatory*, and *repealing* acts, in continued succession, with which our statutes abound, if those acts had been providently and deliberately passed?"

[2] The provision referred only to natural persons. Congregational Society of Poultney *vs.* Ashley, *et al.*, 10 Vt., 241.

rated at $3 for each $100 paid in.[1] Here was the first reference in the grand list laws to stock in corporations. The listers were given authority to place the amount of intangible property at what they believed to be the actual value, in case they had reason to suppose less than the true amount had been returned. Their power was thus made practically unlimited, so long as they acted with "common care, skill and prudence." Attorneys, physicians and surgeons were now listed at not less than $10 nor more than $300, "according to their respective gains." Merchants and traders were set down for at least $15, and from that figure up to $600, "in proportion to their several gains, taking into consideration the capital employed in said business." Mechanics and manufacturers, also, were listed on the income principle, at an amount not exceeding $100, "according to the best discretion and judgment of the listers." The change in practice as to incomes consisted in the revival of minimum assessments. This and the unlimited power given to listers in listing intangible personalty were relied upon to correct the deficiencies of the former laws.

Mills, stores, distilleries, furnaces, etc., were listed at six per cent. of their value.[2] Other real estate, also, except unimproved land and building lots of two acres or less, was listed at six per cent.; and building lots not exceeding two acres, with the buildings, at four per cent. Thus there were now but two distinct classes of real estate, instead of the three established by the law of 1819. Appraisals from this time on were once in five years.

The listers were compelled to post notifications in due

[1] Foreign bank and insurance stock was exempted in the following year. *Laws*, 1826, chap. xx, p. 12.

[2] Wharves and storehouses were listed at the same rate in the lists of the towns adjoining. Those located on the waters of Lake Champlain were outside the town limits; hence the special provision.

season, calling upon all persons to return to them by May 1st, true lists of taxable property possessed on April 1st, and failure to comply with this requirement involved an application of twofolding. If no list was returned, the listers made out a list on their own judgment. A list of the property appraised and assessed was lodged in the town clerk's office by June 20th, for the inspection of the persons assessed. The selectmen, as a board of relief, had power, except in the cases of money on hand and debts, and of bank and insurance stock, to make examinations and reduce assessments. For persons who thought themselves overassessed for money on hand, bank and insurance stock, etc., the process of attaining relief was more simple. It consisted in making a written disclosure to the selectmen, one of whom administered an oath to the effect that the disclosure was "true and faithful," according to the best judgment and knowledge of the oath-taker. This declaration was final; the selectmen acted in a purely ministerial capacity. In case listers failed to return their lists to the General Assembly or to insert what appeared to the Assembly to be a sufficient amount of money on hand and bank and insurance stock, the Assembly could doom the town to any amount. County equalizing conventions of listers were held on quinquennial years, and the averaging committee of the Assembly equalized the returns for real estate between the counties.

The significant changes effected in the character of the grand list by these revisions were two. One removed farming land from the group of property listed at fixed valuations, and put it upon the basis of estimated value. The other provided new resources to the listers for reaching the intangible personalty. The first was clearly an advance on the former practice. Undoubtedly fixed valuations for improved land worked little or no injustice during the

earlier years, when land was plenty and had a comparatively low value. The slight differences in value were hardly worth considering in preparing a grand list. But forty years had brought in their train numerous improvements inseparably connected with the land, and there was the "unearned increment" which a fortunate choice of location had added. It was time for the criterion of primitive agricultural life to give place to one adapted to settled agriculture and growing manufacturing.

Equally creditable to the motives of the legislators, but less defensible on the score of expediency, was the attempt to reach intangible personalty. Given the general property tax as the basis of revenue, there could be no thought of permitting any form of property to escape the listers. The problem appeared to be wholly one of means to an end. How could the owners of property be induced to disclose the total of their taxable property? There was but one answer: Voluntary disclosure had signally failed: rigid and "inquisitorial" methods must be adopted. The event has since demonstrated the futility of the effort, but the law-makers of the day could hardly be expected to have foreseen it. They were committing the mistake which, it is true, had been committed many times before, but which had never been so pronounced as it was destined to be in the highly industrial and commercial era which came to maturity only with the close of the Civil War.

The act of 1825 continued in force until 1841, with frequent amendments of greater or less importance. A change in the form of the oath compelled a person disclosing as to his money on hand, etc., to state that the property or obligations disclosed were in his possession on April 1st. In 1831 the listers were ordered to list stock owned in banks located out of the commonwealth at the discriminating rate of three per cent. of its market value, which was to be ascertained by

oath; but in 1833 the act was repealed. In 1831, also, it was found advisable to adopt a different method of getting at the stock in Vermont banks held by tax-payers.[1] By this method the cashiers of banks transmitted annually in April to the clerks of towns in which stockholders resided a statement of the amount of stock held by residents of those towns on April 1st, with the names of the holders. If a cashier neglected to do this for over thirty days after May 1st, he was liable to a penalty of $10, and for every additional thirty days he was liable to the same amount. In 1833 a general exemption of lands and buildings used for educational purposes was made.[2] An important act of 1834 taxed bank stock owned by non-residents[3] to the corporations in the towns in which the latter were located.[4] Cashiers were obliged to return statements to the listers, and the penalty for neglect was placed at not less than $100 nor more than $500. The banks were given a lien on the shares taxed, and a provision was added that shares were not to be transferable until all taxes had been paid. The amount at which bank and insurance stock was to be listed was increased in the same year (1834) from $3 to $6 per $100.[5] A change in the form of the tax-payers' oath is significant.[6] The oath was now formulated so as to include the clause "whether such debts or obligations are secured by mortgages or not." The implication is that it has been the custom not to include in the list debts secured by mortgages.

The legislature of 1836 assumed the bicameral form, an amendment to the constitution to that effect having been adopted; and in the following year a committee of one senator from each county was appointed to join the house

[1] *Laws*, 1831, chap. xxii, p. 23.

[2] The term "non-residents" refers to non-residents of the commonwealth.

[3] *Laws*, 1833, chap. xxv, p. 24.

[4] *Ibid.*, 1834, chap. xiii, p. 9.

[5] *Ibid.*, xv, p. 13.

[6] *Ibid.*, xxi, p. 17.

equalizing committee.[1] An act of 1840 required stock owned in any steamboat company chartered by the legislature, whether the owners lived within or without the commonwealth, to be listed at the rate of $6 for every $100.[2] The stock of non-residents was placed in the list of the town in which the company held its annual meeting, and in other respects such stock was treated in the same manner as bank stock. This act made an important modification in the provision for appeals from assessments for money on hand, debts due, and bank and other stock, by which persons regarding themselves as over-assessed were allowed to make written application to the listers for a reduction, after which the listers examined the persons on oath and heard other testimony in point. The investigation over, the listers could place the assessment at "such sum as, from the evidence, they shall deem just." This was a radical departure from the former practice, in that the services of the selectmen were now dispensed with, and declarations were abandoned as conclusive evidence. It was felt to be necessary to go behind the returns. The act in question made provision for listing sloops and other vessels owned in the commonwealth (except those owned by incorporated companies) at four per cent. of their valuation. If such vessels were held by persons out of the commonwealth in trust for persons in it, they were listed to the persons for whom they were held.

§ 4. *The Act of 1841.* The injustice of listing large masses of personal property at fixed rates forced itself at length upon the attention of the people, and led to another revision of the law in 1841.[3] The act of that year has been the nucleus of all succeeding legislation. The main characteristic was the appraisal of all property, both real and personal (with certain exceptions), which was listed at one per cent.

[1] *Laws*, 1837, chap. xxxii, p. 24.

[2] *Ibid.*, 1840, chap. ix, p. 15.

[3] *Ibid.*, 1841, chap. xvi, p. 10.

of its valuation.[1] The plan of taking one per cent. of the appraised value still obtains. The polls of males between the ages of twenty-one and sixty years were listed at $1 each.

A number of exceptions were made to the fiction that movables follow the owner. Thus, goods and general merchandise were listed in the town in which they were located, in case the owner lived in another town. The same rule held for machinery, and in case the latter was owned by a corporation, its value and that of the real estate were deducted from the value of the stock before the stock was listed. Horses, cattle, etc., were listed to the owner in the town in which they were kept on April 1st. Personal estate belonging to persons under guardianship was set to the guardian in the town in which the person lived, if he lived in Vermont; if he did not live in Vermont, the estate was listed to the guardian in the town in which the latter lived. There was a similar provision for property in the hands of an executor, administrator or trustee.[2]

The listers, immediately after April 1st, each year, took a list of all the polls and the personal property possessed by residents, and on their demand all persons were to exhibit, within ten days, a statement of the true amount of their personal property liable to taxation, and so much of the debts due from them as they chose to disclose. The law now, it will be seen, called for statements from the tax-payers only

[1] Unimproved lands were no longer exempted from listing and taxation, and the Council of Censors at this time seems to have regarded the change as imposing "an unequal and unjust burden on the owners, particularly non-residents." See *Journal of the Council of Censors*, 1848–9, p. 82. The practical objection was to the high appraisals frequently made for such lands.

[2] In 1844 it was made the duty of the listers, on being convinced that such personal estate was assessed in another commonwealth, not to list it, and the act was made to apply to "agents," as well as executors, administrators and trustees. In the case of Catlin *vs.* Hull, 29 Vt., 152, the situs of such property was discussed, and declared to be in Vermont.

at the demand of the listers. In case of neglect to return these statements, or in case the listers were not satisfied with them, the listers assessed such persons "in such sum as they shall think just and reasonable." There were quinquennial appraisals of all real estate, to be made by June 10th of the year for appraisals. The real estate was set at its "fair cash value." The listers deposited their lists for the towns in the town clerk's office, by July 1st, each year. Persons regarding themselves as "aggrieved" by the assessment could, within thirty days after that date, apply to the listers for relief. The listers could examine such persons on oath and hear other testimony, and their decision after the examination was the legal appraisal. In this examination persons were not compelled to disclose the names of persons who were indebted to them. The lists were revised in September and a copy sent to the clerk of the house of representatives by the second Tuesday of October. County and commonwealth equalization of real estate was effected in the same manner as under the law of 1825, and the list as certified by the equalizing committee of the legislature was tha tused for commonwealth taxes for the succeeding five years.[1]

Cashiers of banks and clerks of corporations were obliged to transmit to the clerks of the towns in which the stockholders lived, the names of those living in each town and the amount of stock held by them on April 1st, together with the actual amount paid on each share.

The act of 1841, thus, was more than ever a general property tax, combined with the poll tax. The income tax idea had been totally eliminated for the time being; but its end was not yet. In several respects the act seems to be regarded as defective, and the legislature of 1842 passed an

[1] Before this the list revised by the legislative committee was the legal list for all taxes.

amendatory act embodying various important changes,[1] one of which was a revival of the income tax. Attorneys, physicians and surgeons were, after that year, listed at not less than $1 nor more than $30, at the discretion of the listers. Polls were listed at $2 instead of $1. Buildings of all kinds, having not more than ten acres of land attached, and mines and quarries, were now placed in a column of the list separate from other real estate, and the county equalizing conventions were compelled to equalize separately the valuations in the two columns.[2] There seems to have been a disposition for the listers not to include certain articles in the list of personal property, for the following are particularly mentioned in this act as listable: Swine that had been wintered one winter, hives and swarms of bees, pleasure wagons, carriages and sleighs, gold and silver watches, and all kinds of chattels and merchandise, whether within or without the commonwealth, unless taxed in another commonwealth. Deductions for debt were hedged about by a strict provision, requiring persons asking deductions to make oath that the debts were *bonâ fide*. The act gave the selectmen authority to revise the ratings of the listers as to money on hand, stock, income, etc., thus reviving the practice previous to 1841.

In this form the grand list retained a degree of permanency for many years. Changes of significance, however, were made from time to time. One of these was that authorized by an act of 1845,[3] which directed that all shares in

[1] *Laws*, 1842, chap. i, p. 5.

[2] The provision was designed to relieve the buildings of farmers from high taxation. Section 3 of the act says: "This section shall not be so construed as to require the listers to appraise the buildings on any farm of more than ten acres, occupied for the use of said farm, separate from the farm on which they stand, but the same shall be appraised with and as part of said farm."

[3] *Laws*, 1845, chap. xvii, p. 11.

railroad companies be placed in the lists of the towns in which they were owned, in the same manner as that by which bank and other stock was listed; but the act did not affect particular companies until some portion of their roads had been completed and put to use. An act of 1849 revived the practice of listing shares of bank stock owned by non-residents in the towns in which the banks were located.[1] In case the residence of the owner of stock was unknown or was in an unorganized town or gore, such stock, by an act of 1852, was also set in the list of the town in which the bank was located.[2] The act in regard to the taxation of non-resident stockholders was repealed in 1854, when a new act was passed, requiring the banks to pay to the commonwealth treasurer one per cent. of the value of the shares owned by non-residents, and the amount received was divided among the counties.[3] In 1853 railroad stock owned outside the commonwealth was taxed directly by the latter at the rate of one per cent., if it yielded six per cent. interest.[4] This system of taxing the stock of non-residents continued until it was declared unconstitutional by the United States supreme court on the ground of discrimination, after which such stock was again listed at the home of the principal office of the corporation, in the same manner as was other stock.[5]

An act of 1850[6] repealed the "faculty tax" on physicians and attorneys, and since that year this peculiar tax has not held a place in the revenue laws of Vermont. It has always been obnoxious to the professional class, and the revenue derived from it showed a tendency to constantly dimin-

[1] *Laws*, 1849, chap. xviii, p. 13. [2] *Ibid.*, 1852, chap. xliii, p. 41.

[3] *Ibid.*, 1854, chap. xxiv, p. 26. In 1864 the rate was made two per cent.

[4] *Ibid.*, 1853, chap. lxiv, p. 56.

[5] The legality of the last-mentioned method was upheld in the cases of the Town and Village of St. Albans *vs.* the National Car Company, 77 Vt., 68.

[6] *Laws*, 1850, chap. xxxix, p. 28.

ish. The opinion of John Stuart Mill[1] that an income tax, although eminently fair in principle, cannot be applied with equality in practice, except in emergencies, has confirmation in the experience of Vermont. The "faculty tax" was either a tax on the "most conscientious" or it was more or less a dead letter.

Almost every year at this time saw some change in the listing laws. An act of 1852 allowed the listers to omit from the list of polls the names of very poor persons, and those of persons likely to leave town before the tax could be collected.[2] In 1853, a committee of the House of Representatives was made the commonwealth averaging board, the Senate thus being ignored in equalization. In the same year stock of steamboat and all other transportation companies was put in the same category with stock in railroad companies and banks.[3] Another act of this year has a certain interest on account of the light it sheds upon the practical aspects of listing. It provided that removals from one town to another on or before April 1st should not exempt persons from listing and taxation in the towns in which they had been residing. In such cases the listers acted in a judicial capacity.[4]

In 1855 occurred another revision of the grand list laws,[5] but there was no deviation as to principles from the act of 1841. The revision was really a systemization of the act of 1841 and the amendments made to it in the intervening period. Section 46 of this act (that of 1855) was specific in reference to deductions from personal property for debts, the condition of deduction being that each person "shall answer all such interrogatories in regard to debts due or owing from him as shall be propounded to him by the listers." In 1856 an act

[1] *Principles of Political Economy*, Laughlin's edition, p. 556.

[2] *Laws*, 1852, chap. xliv, p. 41.

[3] *Ibid.*, 1853, chap. xxxvii, p. 34.

[4] Davis *vs.* Strong, *et al.*, 31 Vt., 332.

[5] *Laws*, 1855, chap. xliii, p. 44.

was passed declaring that the alterations in the valuations made by the county conventions and the commonwealth equalizing committee were not to apply to any taxes but county, commonwealth and commonwealth school taxes.[1] The act of 1855 was construed in 1856 to mean that stock in corporations located outside the commonwealth should be listed, even if such corporations were taxed where they were located,[2] but in 1857 it was enacted that such stock should not be listed if the corporations paid *full* taxes in the commonwealths in which they were located.[3] In 1862 dogs were set in the list at $1 each, and persons owning dogs were not allowed to deduct this amount on account of any debts owed.[4] An act of the same year[5] authorized the governor to appoint a commissioner for every county in which there were unorganized towns or gores, who were to perform the duties of listers for such towns and gores. The appraisals of real estate by these commissioners were not revised by the county averaging conventions or the legislative committee. In 1864 the provision of the listing law regarding the stock of banks was extended to the national banks,[6] but in the following year it was enacted that such stock owned by non-residents should be listed in the town in which the bank was located, and that the cashier should pay the taxes assessed. It was not until 1878 that the same rule was adopted for taxing the stock of non-residents in commonwealth banks, despite the unconstitutionality of taxing it in a special manner.

[1] *Laws*, 1856, chap. xlvii, p. 52. "Commonwealth school taxes" were those levied by the towns under an act of the General Assembly. The act of 1856 was repealed in 1860.

[2] *Laws*, 1856, chap. xlviii, p. 52. [3] *Ibid.*, 1857, chap. xxxi, p. 43.

[4] *Laws*, 1862, chap. x, p. 29. The act continued until 1876, when dogs were dropped from the list, and a special license fee for local revenue was established. *Laws*, 1876, chap. xvi, p. 78.

[5] *Laws*, 1862, chap, xviii, p. 40. [6] *Ibid.*, 1864, chap. xx, p. 40.

An act of 1864[1] facilitated the work of listers by compelling tax-payers to hand in lists of their real and personal property by April 10th each year, and to give notice of all transfers of real estate made during the preceding year; and in the case of mortgages the mortgagors were to notify the listers when the mortgagees took possession. Here was a revival of the listing system, pure and simple. From 1841 up to this time lists had been given to the listers only on demand from the latter. The act took particular notice of deductions from personal property on account of debts, and it was made the duty of the listers to require in each case a statement, under oath, of the amount of United States stock, bonds or other securities; and only the excess of debts over the amount of such securities, which were exempt by the national law from taxation, was deducted from the list. Persons or corporations neglecting or refusing to disclose the amount of such securities were not allowed to make any deductions for debts owed. The court decision denying the right of commonwealths to tax United States securities led, in 1865, to an act by which the income, and not the securities themselves, was listed.

Persons dissatisfied with the appraisal of their real estate were in this year (1865) allowed an opportunity to appeal to the judges of the county courts, whose decision was final, but did not apply to the list as made up for county and commonwealth taxes.[2] In 1867 the maximum age at which polls were to be listed was made seventy, instead of sixty, years.[3] In 1869 the stock of trust companies and "other moneyed corporations" was listed in the same manner as national bank stock; that is, stock owned within the commonwealth was listed in the towns in which it was owned, while that

[1] *Laws*, 1864, chap. lxiv., p. 72.

[2] *Ibid.*, 1865, chap. xxiii, p. 35.

[3] *Laws*, 1867, chap. xlii, p. 53.

owned outside the commonwealth was listed in the town in which the office of the company was located.[1] In the same year mannfacturing establishments having a capital of at least $1,000 were exempted from taxation for the first five years, but the listers were ordered to set the appraisal of the exempted property in the list, noting the exemption and the date at which it began.

Quinquennial appraisals of real estate were abandoned in 1872 and quadrennial appraisals substituted.[2] The first appraisal under the new plan occurred in 1874. The act by which this change was made contained several other provisions of importance. Appeals from the appraisals of real estate by the listers to the board of civil authority, instead of the county court judges, were authorized, and the decision of this board was final. A new method of equalizing the lists of the counties, also, was adopted, each county convention electing one of its members as a member of a commonwealth board, which met in August. The secretary of state was an *ex officio* member and presided. The appraisal of real estate, as made up by this board, was that on which commonwealth taxes were levied for the succeeding four years.

The first attempt to tax the real estate of railroads was made in 1874, when an act was passed giving the listers in each town authority to list the real estate owned or occupied by railroad companies within their respective towns exactly the same as other real estate, and real estate was defined to include the road-bed, tracks, and all lands used for railroad purposes.[3] No road-bed could be valued at over $2,000 per mile of the main line. The real estate of railroads, however, was exempted from taxation for ten years from the time at

[1] *Laws*, 1869, chap. xxv, p. 29.

[2] *Ibid.*, 1872, chap. xv, p. 41.

[3] *Ibid.*, 1874, chap. iv, p. 19.

which regular trains began to run.[1] The act contained a weakness which revealed itself in the next quadrennial appraisal. In instances in which the road-bed was valued at the maximum of $2,000 per mile, and the total valuation of the towns was increased by the county or commonwealth equalizing boards, the final valuation was placed at a higher figure than $2,000—a result at variance with the purpose of the law. To remedy this defect, an act was passed in 1878 by which the appraisals of railroad real estate and other real estate were made separately, as were the equalizations of the county boards.[2] In the equalization of the appraisals of the road-bed, the limit of $2,000 could not be passed.

From the close of the war up to 1880, there was a growing discontent with the property appraisals. The equalizing boards were not equal to the herculean task of wringing full valuations of real estate from the listers. The efforts of the county boards had, in some instances, ended in dead-locks and other complications, which it was necessary to refer for settlement to the house delegations of the respective counties in the legislature.[3] Each town was actively interested in keeping its list as low as possible; for the lower it was, the less were its commonwealth and county taxes. Listers are men, and, with local sentiment strongly demanding a low valuation, it was but natural that, despite oaths to list at the "true value in money," each should find it the part of wisdom to keep the list of his own town down as far as the county board would allow. Still, although placed at a valuation always below the true value, and sometimes as low as one-third of it, real estate was generally equalized with something like rough justice. Personalty, however, steadily dropped in valuation, notwithstanding the fact, apparent to

[1] In 1876 the limit was reduced to eight years. *Laws*, 1876, chap. xvii, p. 84.

[2] *Laws*, 1878, chap. cii, p. 94. See also an act on the subject on page 95.

[3] *Ibid.*, 1870, chaps. ccxciii–iv–v–vi, pp. 573–6.

all, that the amount owned in the commonwealth was increasing.[1] In 1866, the valuation of personalty was placed at $21,435,281 in the list; in 1870, at $21,555,428; in 1874, at $19,330,432; in 1878, at $16,845,123; and in 1880, at $15,037,262. The fact was that not only was personalty listed for less than its true value, but the tax-payers were concealing, to a marked degree, their property of this kind, for the purpose of avoiding taxation. Deductions for debts owed were one of the most common means of evasion. The actual status of taxation during the fifteen years from the close of the war until 1880, was well described by Hon. Jonathan Ross, the present chief justice of the commonwealth, in a report to the Council of Censors as chairman of the committee on taxes and expenditures, in 1869. He said:

In different parts of the state the same class of property is assessed at different valuations, and rarely, if ever, at its true value in money, as required to be assessed by the statute. Real estate is assessed usually at from one-half to two-thirds of its true value in money, unless it happens to consist of wild lands owned by non-residents, which are frequently assessed for more than they will bring in market.

[1] Governor Stewart, in his message to the legislature in 1870, said: "Our system for the assessment of taxes is defective. The amount of personal estate which escapes taxation is enormous. Valuations are unequal, and the burdens of taxation bear unequally upon our citizens. Real estate cannot escape, but personal property, through the much-abused privilege of offset for debts, and the various shifts of evasion and concealment too commonly practiced, is largely omitted from our annual lists." Governor Fairbanks, in 1876, referred at length to what he termed "the work of demoralization." He said: "Without doubt there is too much foundation for these complaints, though the class first mentioned could have no existence in fact, if listers would faithfully observe the law, and appraise all property at its just value in money. It is notorious that they do not regard the law in this respect, but appraise property at from one-third to two-thirds its just value in money, often vieing with each other to place and keep the property in their locality in the list as far below its value as possible. I am informed that conscientious listers often refuse to sign and make oath to the list, from a knowledge of their failure to comply with the law."

Personal property is usually assessed at nearer its value in money, but rarely above two-thirds that value, unless it consists of stocks returned to the town clerk [owned by non-residents], which are generally assessed at their full par value. * * * Public opinion seems to be morally depraved in regard to this matter. It is hardly considered a stain upon one's character to make any statements, however false, in regard to the amount of his property. * * * While the personal property is assessed at from half to two-thirds its true value in money, the deductions for debts are for the full amount, and sometimes double the amount; in fact, it is believed that fictitious debts are frequently contracted for the express purpose of obtaining these deductions.[1]

Although the defects of the listing laws referred to grew more apparent in succeeding years, it was not until 1880 that attention was sufficiently fixed on the subject to secure a change of policy on the part of the legislature. In that year was enacted a law which was intended to result in larger returns for both real and personal property, and it may be said with truth that it has been in a measure successful. In 1882, the law was carefully elaborated, and as it then left the hands of the legislators it now remains on the statute-book, with immaterial amendments.

§ 5. *The Grand List at Present.* The act of 1880[2] did not purport to be a complete remodeling of the listing laws. It was based on the act of 1841, which had been revised in 1855. Its title was expressive—"An Act to Equalize Taxation." In accordance with its provisions, all taxable property was set in the list at one per cent. of its estimated value in money on April 1st. Blank inventories were furnished the towns and cities by the secretary of state. These inventories were very specific. The amount of United States stock, bonds, and other exempted securities was to be stated. A

[1] *Journal of the Council of Censors*, 1869, pp. 34–6.

[2] *Laws*, 1880, chap. lxxviii, p. 76.

statement in detail of debts actually due from the tax-payer on April 1st, to the amount of the deduction claimed, was to be included, and no deduction could be made for debts owed unless the statement contained the name and place of residence of each person to whom the tax-payer was indebted, and the amount owed to each. Nor could any deduction be claimed on the ground of being an endorser or surety, and deductions on account of joint indebtedness could be only to the amount which the tax-payer would be obliged to pay if all the persons jointly bound were to pay equal parts of the debt. The amount of United States securities was deducted from debts owed. An oath to the correctness of the inventory was required; this was the characteristic feature of the law. It called upon each tax-payer to swear or affirm that he had set down only such debts as he was unconditionally bound to pay, and that he had conveyed no property nor created any debt for the purpose of evading the law. The oath or affirmation was to be signed.

On April 1st the listers began to collect the inventories, examine the visible property and appraise it at "its true value in money." If a person omitted to make and deliver to the listers his inventory, or to swear to it, or if the listers had reason to believe the inventory not to be a full and correct statement, they obtained the amount of taxable property in the best way they could, appraised it and doubled the amount; and one per cent. of the amount obtained stood as the list.[1] No relief could be granted by the selectmen in appeals in such cases. A person wilfully swearing falsely as to his inventory was regarded as guilty of perjury. The listers were required to take the usual oath, and those violating it also were declared guilty of perjury. If a lister accepted an

[1] This method of appraisal was held to be constitutional in the case of Bartlett *vs.* Wilson and Tr., 59 Vt., 23.

inventory not properly made out and sworn to, or neglected or refused to set in the list each item of an inventory, he forfeited $200 for each instance, and any tax-payer could bring suit against him in the name of the town. The lists, in alphabetical order, were lodged in the town clerk's office by April 25th for inspection. The commissioners in the gores were charged with the same duties as those of the listers.

The appraisal of the road-bed of railroads was at this session of the legislature put into the hands of a commonwealth commission of three members, appointed by the governor.[1] This commission was directed to certify to the listers of the towns through which railroads passed the average value per mile of the road-bed, and the listers were obliged to accept this valuation. The other real estate of railroads was listed by the listers as before. This solution of the appraisal of railroad real estate was only temporary, however, for in 1882 a comprehensive system of corporation taxation was adopted, and previous legislation was abandoned. Industries and quarries having over $1000 invested were in this year (1880) exempted from taxation for five years, and the towns were permitted to extend the exemption to ten years. But such property was appraised and listed.[2] By another act the towns were allowed to drop the polls of the militia from the list if they chose.

The act of 1882,[3] "revising, consolidating and amending the laws relating to the grand list," contains all that the act of 1880 did, and much more. The provision for information by means of inventories is exhaustive. It is hardly conceivable how more particulars could be included, or how greater precautions could be taken to avoid uncertainty or evasion.

[1] *Laws*, 1880, chap. lxxx, p. 81.

[2] *Ibid.*, cxxviii, p. 117. In 1884 the limit of exemption was fixed at five years, and the towns could decide by vote on the exact period within the limit.

[3] *Ibid.*, 1882, chap. ii, p. 11.

A few of the items of the inventory will illustrate its thoroughness. Item no. 3 asks how many horses, mules, asses, oxen, cows, other neat stock, sheep and swine, over four months old, were owned on the first day of April. No. 4 asks the number of swarms of bees and the number of watches, pianos and organs. No. 9 is supposed to sound the depths of each tax-payer's knowledge as to his money on hand, debts due, mortgages, etc., held. No. 16 is: "What amount of debts were you owing on the first day of April, 189–, for which exemption from taxation should be made? State the name and residence of creditor." The inquiries regarding stock and bonds are exceedingly minute.

The oath prescribed for the tax-payer is the same as that of 1880. The listers are given full opportunity, also, to "make such personal examination of the property which they are required to appraise as will enable them to appraise it at its true value in money." The deductions from personal estate allowed are the excess of debts owed over the amount of United States bonds and other stock and bonds exempt by law, and the amount of deposits in savings banks, savings institutions and trust companies; but no debt is taken into consideration in making the deduction unless the name and residence of the person owed is stated in the inventory. On this point the law is the same as it was in 1880. If the deduction claimed is greater than the amount of personalty owned by the tax-payer in the town of his residence, he is permitted to have this excess apportioned among the other towns in which he is taxable for personalty, and the part apportioned to each town is deducted from his personalty there taxable. The real estate is listed at the valuation fixed by the quadrennial appraisal, unless there has been an increase in the value after that time, due to new buildings or extensive repairs, or a decrease, due to fire, flood, or other accident. In these cases

the valuation is either increased or decreased. One per cent. of the appraised value of the real and personal property is taken as the basis of the list, the amount of the polls being added.

In cases in which a person or corporation wilfully neglects to make out and return an inventory in the proper manner, the provision is as in 1880: the listers are authorized to ascertain the amount in the best way they can and double it before taking the one per cent. A refinement of the law of 1880 in this particular enjoins the listers, if they regard the sum obtained by doubling as less than the true amount, to "further assess such person or corporation for a sum which will, in their judgment, make up such amount." If no property can be found, the listers are permitted to assess the person or corporation at what they believe is the value of the property possessed. The listers are directed to hear persons dissatisfied with their appraisal or any other act; but the lists of persons arbitrarily assessed for wilfully ignoring the inventories cannot be reduced below the amount reached by doubling the appraisal. Persons dissatisfied with the decision of the listers may, within twenty-four hours, appeal to the board of civil authority for a final hearing. The completed list is deposited in the town clerk's office, with an oath appended to the effect that it has been made up in accordance with the law, to the best of the listers' information and belief. The listers are directed, as soon as they have collected the inventories, to ascertain from them the amounts due to and owing from tax-payers, and to notify the listers in the towns in which the persons who owe the debts, or to whom the latter are due, reside. Abstracts of the lists are sent to the secretary of state by July 1, and the secretary prepares the list of the commonwealth by October 1.[1] Personal estate is distinctly stated in

[1] *Laws*, 1886, chap. xi, p. 8.

the act of 1882 to include choses in action. One of the most important changes in practice was the abandonment, in this year, of the equalizing system. This was effected by a provision in the corporation tax law.[1]

A separate act[2] of 1882 makes the deposits in savings banks in excess of $1,500 listable as other personal property is. As a penalty for not entering in his inventory the amount of the excess over $1,500, the tax-payer is made liable to forfeit the excess to the town in which he resides. Deposits in trust or in the name of another person, for the purpose of avoiding the law, are subject to the same forfeiture. The treasurers of savings banks, saving institutions and trust companies are required to make annual returns to the listers of the towns in which depositors having an excess over $1,500 reside. Treasurers failing to comply with the law are liable to a fine of $5,000. The opportunities for evading taxes on these deposits are thus made as few as possible.

The changes in the law since 1882 have been unimportant. In 1886 to the list of exemptions was added one watch not exceeding $20 in value.[3] In 1892 lands previously unoccupied and neglected, but thereafter occupied and improved, and the buildings on them, were exempted from taxation for five years, if the towns in which they are situated so vote, but the appraised value of the lands must be listed, with the exemptions noted.[4] This measure, called "An Act to Encourage the Improvement of Unoccupied Lands," is a part of the effort which is made to repeople the abandoned farms of the commonwealth—an effort which is being crowned with fair success. Another act of 1892 exempts from poll taxes veterans of the civil war, having no taxable property, if re-

[1] *Laws*, 1882, chap. i, p. 3.
[2] *Ibid.*, iii, p. 20.
[3] *Ibid.*, 1886, chap. iv, p. 5.
[4] *Ibid.*, 1892, chap. x, p. 18.

quests to that effect are made.[1] The names are set in the list, with the words "soldier exempt" opposite.

The law of to-day is substantially that of 1880 and 1882, and the latter are parts of the law of 1841, revised and consolidated in 1855. In its present form the grand list includes the polls of males, between twenty-one and seventy years, each at $2; and aside from that feature it is a general property tax. Real estate is listed in two classes, viz.: that which includes not more than ten acres of land and that which has more than ten acres. Personal property, with very few exceptions, is listed, and to get as much as possible on the list inventories of a very "inquisitorial" character are sent to every tax-payer, and must be returned, accompanied by a signed oath. Deductions from personalty are allowed for debts owed, but every precaution is taken to frustrate deductions for fictitious debts. False swearing is denominated perjury. The exemptions allowed include the following: 1. Polls of veterans not having taxable estate and of those physically infirm; also, the polls of militiamen and firemen, if the towns so vote. The extremely poor and those likely to leave town before the tax could be collected are not included in the list. 2. Deposits in saving banks to the amount of $1,500. 3. The property of manufacturing companies having over $1,000 invested, for a period not exceeding five years, if the towns so vote. 4. Land and buildings owned and occupied as a home, which previously had been unoccupied and neglected for two years or more, for five years, if the towns so vote. 5. Real estate owned by the commonwealth or the United States. 6. Real and personal estate used for public, pious and charitable purposes. 7. The real estate and trust funds of cemeteries. 8. The household furniture of every person, not exceeding $500 in value; wearing apparel; private and professional libraries; farm-

[1] *Laws*, 1892, chap. xi, p. 18.

ers' and mechanics' tools necessary to carry on their occupations; provisions necessary for the consumption of a family for a year; sheep, cattle and horses not four months old; fowls to the value of $20. 10. Lands leased by the towns for educational purposes, and lands owned or leased by colleges, academies or "other public schools," together with the boarding houses of normal schools. 11. Lands leased for the support of religion. 12. Real estate used by Grand Army posts for post purposes.[1] Persons wilfully refusing to return proper inventories are subject to double doomage, and have no redress. One per cent. of the total valuation of the real and personal property listed is added to the total for polls, and this total forms the grand list. Such, in brief, is the listing system in 1894.

I have said that the departure of 1880 has, in a measure, attained the purpose. A comparison will make this clear. The total of personal property in the list of 1880—made up just before the new law went into effect—was $15,037,262, which was seventeen per cent. of the aggregate valuation of realty and personalty. In 1882 the total of personalty was $46,218,508, which was thirty per cent. of the aggregate. In 1892, personalty was $48,878,272, or thirty-one per cent. of the aggregate. Property is at present appraised at about two-thirds of its actual value, which is certainly as high as can reasonably be expected, in the light of experience. The law may be said to have had the desired effect thus far; but, like all other general property laws, it is perhaps to lose its efficacy in time. It is much easier to put a large amount of personalty into a list in a certain year, through stringent and "inquisitorial" rules, than it is to keep it there permanently.

[1] Nearly all these exemptions are mentioned in the listing laws and are exemptions from listing as well as taxation.

CHAPTER V. COMMONWEALTH REVENUE.

§ 1. *Early Sources.* At the time when the formal separation from New York was being accomplished, affairs in Vermont were in a state of decided confusion. In the summer of 1777, occurred the British advance from Canada under Burgoyne. The excitement in New York and Vermont was intense. At this critical time two measures, in addition to provision taxes (which will be referred to later), were adopted as means to secure a revenue. Ordinary taxes were out of the question just then. One of these measures was a loan office, authorized by the Council of Safety, which had been appointed as a temporary directorate by the convention of July 2nd–8th, which adopted the constitution. Ira Allen was selected as the trustee, and by August 18th, an office had been opened at Bennington. An appeal to the public was made through the *Connecticut Courant* for loans in sums of £10 or more, payable in one or more years, with interest at six per cent. It does not appear that any considerable sum was advanced, although the office was continued after the state government went into operation.[1] The project had little fiscal importance.

[1] In an address to the people of the state in July, 1779, Allen, who had been elected state treasurer, referred to these loans, but threw no light on the amount received. He said: "The Circumstances of this State, in some Respects, is different from any other State on the Continent:—it is not in Debt—I have as much Money in my Office as is due from the State except what I have taken in upon Loan, to balance which I have in my Office about as much Money in Continental Loan Office Notes, so that, on a Balance, the State is little or none in Debt, excepting what may be supposed to be this State's Proportion of the Continental Debt."

A more successful method of raising funds was devised by Allen at a meeting of the Council of Safety in August (1777). It was the confiscation of the estates of Tories. In his determination to have a regiment of troops, instead of a smaller number, equipped, he promised, while a discussion of the subject was going on, to devise a plan by sunrise of the following day. When the Council met the next morning, he reported in favor of seizing the property of Tories, and turning the proceeds into the treasury of the Council. The idea was adopted, and it was claimed by Allen that this was the first instance in the colonies of the confiscation of Tory estates.[1] The practice thus begun by the Council of Safety was continued by the state government, and was vigorously pushed, notwithstanding a remonstrance of Congress in 1780, at the instigation of New York, which lost no opportunity to oppose the acts of Vermont. It is certain that a ruthless hand was laid on loyal subjects. Up to 1780 their estates were the chief source of revenue.[2]

Another fruitful means of supplying the treasury during the latter part of the war and in the following years was the grants of land which had previously been unsettled. These grants began on a large scale in October of 1780, and, curiously enough, the first township granted then was Montpelier, which afterward (in 1808) became the capital of the commonwealth. The fees for this township were £480 in hard money, or an equivalent in Continental money. At

[1] Ira Allen's *History of Vermont*, p. 385 of Vermont Historical Society's Collection, vol. i.

[2] For a commission for confiscation see Slade's *State Papers*, p. 560. Ira Allen, in his *History of Vermont*, speaks of the confiscations: "In consequence of internal divisions, and to make government popular, it was thought good policy not to lay any taxes on the people, but to raise a sufficient revenue out of the property confiscated and the ungranted lands. Hence it was found that those who joined the British were benefactors of the state, as they left their property to support a government they were striving to destroy."

the same session the General Assembly granted some fifty more such townships, on about the same terms, the exact amount varying according to the size of the township and the quality of the land. Blank petitions for grants had been printed and scattered through New England and further south, and even in the army camps, for the purpose of calling attention to the subject. At close of the war there was a genuine boom in Vermont lands, and land companies were formed in New Hampshire, Massachusetts, Rhode Island and Connecticut. The freedom of the young state from embarrassing war debts, as well as the fertility of the land, operated to draw in immigrants and attract speculators.

The confiscated Tory estates and the land grants seemed, in the words of the Council of Censors, "to have been a boon conferred by providence for the support of our republic in its infancy, while its subjects were unable to pay taxes." The receipts were considerable. In 1787, when the treasury accounts were audited for the period from March of 1777 to October of 1786, it was reported that the total amount in Continental money (much depreciated, of course) received in that period from the confiscated estates was £190,433 6s. 4d.; from the land grants, £66,815 13s. 8d. While the receipts from the latter would undoubtedly have been much larger under a more prudent policy of disposing of the land than was followed, the fact remains that the grants tided the state over a very trying time.[1]

§ 2. *Provision Taxes.* Notwithstanding the large revenue obtained from the first through the confiscation of the estates of Tories, direct taxes for the support of the army soon became unavoidable. The first of these was one payable in

[1] Ira Allen in 1786 commented thus upon one effect of the grants: "This mode of procuring money made the state many firm and interested friends abroad, amongst which were some of the first characters in the United States."

kind, and was levied by the General Assembly in October of 1780. The act[1] provided that

there be seventy-two thousand seven hundred and eighty-one pounds of good beef; thirty-six thousand three hundred and eighty-nine pounds of good salted pork, without bone, except back-bone and ribs; two hundred and eighteen thousand three hundred and nine pounds of good merchantable wheat flour; three thousand and sixty-eight bushels of rye; six thousand one hundred and twenty-five bushels of indian corn, collected at the cost and charge of the respective towns in this state, and at the rates or quotas hereafter affixed to such towns.

The selectmen levied the tax, which could be paid in silver or paper money, if any tax-payer preferred. If a town refused to pay, the commissary-general had authority to summarily seize the quota from the persons opposing the execution of the law. No basis on which the apportionment was made is indicated, save through the very vague and ethical expression, "of right ought to be." It was probably the polls and the general property of the towns, roughly estimated.

This tax was succeeded in October of the following year (1781) by another of much the same character.[2] This time, however, there was no apportionment of quotas to the towns, but a definite rate of "twenty ounces of wheat flour, six ounces of rye flour, ten ounces of beef, and six ounces of pork, without bone, except rib and back-bone," on the pound, was levied on the list of "polls and rateable estates." The other requirements of the act were substantially the same as those of the act of 1780, except that as a precaution against having provision of poor quality unloaded on the army, it was enacted that the casks be branded so as to designate the town from which they came.

[1] *Laws*, 1780, p. 407 of Slade's *State Papers*.

[2] *Ibid.*, 1781, p. 440 of Slade's *State Papers*.

The two provision taxes were not paid with the greatest alacrity, but the same can be said of all the taxes of the period. It was a time of too great poverty and disorder for prompt and cheerful responses to tax levies.

§3. *Land Taxes.* In the thirty-five years following the separation a number of special taxes were levied upon land, in proportion to the quantity. The first of this nature was that authorized by the act providing for bills of credit, passed in April, 1781.[1] Part of the amount issued was paid for by a land tax, and part by a tax on the grand list. This land tax was levied to reach the owners of land in large tracts, "a very large part of which has hitherto paid no part of the great cost arisen in defending it." The rate was ten shillings on each hundred acres that could then be settled, through the cessation of hostilities, public rights and college lands excepted; and the tax could be paid in silver, gold or the bills of credit. At least one other land tax was levied in this decade, under an act of 1783. But land taxes were a subordinate means of revenue, and the only one of importance for several years was that of 1791,[2] the object of which was to raise the $30,000 due New York in extinguishment of the claims of grantees of land from the government of that commonwealth when it was a royal province. The tax was at the rate of a half penny on each acre, "except lands sequestered for public, pious and charitable uses, and still remaining to such uses," and was to be paid by January 1st, 1794. A land tax of one cent on each acre also was levied in 1796, but the difficulty in collecting it and the tax of 1791 may have been the reason why in the next ten years no taxes of this sort were voted. In 1807, however, another levy of one cent on the acre was made, the purpose being to meet the expense of

[1] *Laws*, 1781, p. 424 of Slade's *State Papers*.

[2] *Ibid.*, 1791, p. 295.

erecting a prison.[1] This tax was payable in hard money, orders on the treasurer issued by the supreme court, and bills of the Vermont bank.[2] The last land tax for commonwealth purposes was that of 1812,[3] which also was at the rate of one cent on each acre, and was passed to meet the increased expense of the commonwealth on account of the war with Great Britain.

§ 4. *Taxes on the Grand List.* The first tax on the grand list was levied by the act of April, 1781, which provided for an issue of bills of credit. The tax was levied to secure the redemption of a portion of the bills, and the rate was one shilling and three pence on the pound. Silver, gold or the bills of credit were received in payment. Other taxes on the grand list followed in the period of independence, but during the first decade they were of secondary importance. Out of a total revenue of £327,947 9s. 1d. during the period from March of 1777 to October of 1786, according to the report of the treasurer in the latter year, but £45,948 6d. came from taxes.[4] But from 1786 until 1883 (when the corporation tax law went into effect) almost the entire revenue was derived from annual taxes on the grand list.

The rate for a few years after 1787 was high, compared with that of the period following the entrance of the state into the Union. Thus, in 1787 it was six pence on the pound; in 1788, five pence; in 1789, five pence. In 1791 it fell to two and one-half pence, and, with the exception of 1796, when it was five pence, it remained at about the same figure until 1814. The grand list was expressed in dollars after 1796, and the rate in cents. In 1813 there were two taxes, each of one cent on the dollar; so that, practically,

[1] *Laws*, 1807, chap. cxxxii, p. 189.

[2] See Appendix I for a brief history of the bank.

[3] *Laws*, 1812, chap. cxxxiv, p. 178.

[4] *Governor and Council*, vol. ii, p. 64.

the rate of that year was two cents, instead of one cent, which had been the usual rate after the change from pence to cents. One of these taxes was for the extra expense of the militia during the war. After the war, the rate was slightly higher than before, it now being one and a quarter or one and a half cents to the dollar. In 1826 a jump was made to three cents, at which it remained until 1842, when it became ten cents. These violent changes were caused by the revisions of the listing law in 1825 and 1841, by which smaller grand lists resulted. From 1846 to 1860 the rate was from seven to twenty cents, with fourteen as the average. During the war the levies on the grand list were very heavy, that of 1864 reaching $1.25 on the dollar. Since the close of the war the rates, on the whole, have been steadily going down, although the fact that grand list taxes in the past few years have not been levied annually has caused an apparent increase.

An important change in the principle on which grand list taxes were levied was in operation from 1882 to 1892. When a commonwealth tax was voted, the amount of the tax per capita was stated. The tax was then apportioned among the cities, towns and gores in proportion to the population according to the last United States census. The officers of the cities, towns and gores then decided upon the rate on the grand list necessary to raise the amount apportioned to them. The same method applies to county taxes. The system was a substitution for county and commonwealth equalizations, which had been given up in 1882. The decrease in commonwealth grand list taxes during the decade in which the corporation tax law has been in force brought about, in 1892, a return to the former method, minus equalization. When a tax is voted, each town, city or gore now pays the amount which the rate, applied to its grand list, produces.

Although nearly the whole revenue of the commonwealth

was formerly derived from grand list taxes, the receipts were not imposing, as the expenses have been small compared with those of most of the commonwealths. In 1793, the treasurer—Samuel Mattocks—reported that there had been received from taxes during the year from September 15th, 1792, to September 15th, 1793, £3,652 2d. The other receipts for the year were £54 17s. 9d., for interest in taxes that were overdue; £1,306 11s., for fees for land grants; and £145 1s. 6d. for fines and costs imposed by the courts. In 1815, the revenue from grand list taxes had increased to $32,338.48, while the total receipts "extra of taxes" were $2,647.29. In 1845, the receipts from taxes (including $659.56 for interest on arrearage) were $72,106.11. The other regular sources of income that year yielded about $10,000. The grand list tax of 1860 brought in $146,903.75; that of 1864, $1,201,939.74; that of 1866, $563,526.25; that of 1877, $314,692.86; that of 1891, $272,858.85. The difference between the receipts for 1877 and those for 1891 is due to the corporation taxes of the latter year more than to the natural decrease which would be expected in consequence of the payment of war debts.[1]

§ 5. *Collection.* The system of collecting commonwealth taxes did not change in principle until 1880, but the statute books are weighted with numerous acts respecting details, especially in reference to the sale of property for non-payment. The first acts made it the duty of the treasurer of the state to issue warrants to the first constables of the towns, who, after receiving rate-bills from the selectmen, proceeded

[1] The commonwealth never had any considerable debts until the civil war began. Then debts to the amount of $1,650,000 were contracted, but by December 1st, 1878, they had all been paid, except $135,500, the amount of the Agricultural College fund belonging to Vermont, which is invested in commonwealth bonds. As this is not strictly a debt, the commonwealth really has been out of debt since 1878.

to make collections.[1] When the tax was not paid, the collector distrained the goods and chattels of the delinquent. If no goods or chattels could be found, the body was attached and imprisoned until the taxes and costs were paid. In case the delinquent was absent, his land was sold at auction, after notice had been published in the newspapers. The original owners were permitted to redeem their land within a year by payment of the selling price and twelve per cent. interest. Sales of land for taxes were frequent in the early days. The collectors were at first allowed one pound out of eighty collected, but in 1787 the rate of compensation was fixed at one in fifty. When the collectors neglected to collect and pay in the taxes apportioned to them, warrants were issued to the county sheriffs to collect from their property. If the collectors proved to be insolvent, the property of the selectmen or other citizens could be taken, and a tax could be assessed to reimburse the latter.

The difficulties of collection in the earlier years were great. This was particularly so with land taxes, on account of the inability of the selectmen to obtain correct statements of the ownership of lands which had been granted in townships, and were still in many cases not divided among the owners in common. The proprietors' clerks often refused to throw light upon the subject by allowing their books to be inspected, and many were the acts of the General Assembly designed to bring them to terms. Another difficulty was experienced in the failure of some of the towns to return to the treasurer the names of their first constables. An act was passed in 1787 to meet such cases.[2] The treasurer was instructed to publish in the newspapers

[1] The first acts are found in the *Laws* of 1779 and 1781, p. 332 and p. 425 of Slade's *State Papers*. An act of 1787 made more specific provisions. *Laws*, 1787, p. 125.

[2] *Laws*, 1787, p. 207.

the names of the delinquent towns, and to call upon the selectmen to make returns of the names of the derelict constables; and he was directed to issue extents for the sums due against the selectmen, if the latter neglected to respond. The Assembly was in the habit of making abatements when towns were confronted with peculiar difficulties, and occasionally a town was relieved from its entire tax. It was also frequently the custom to extend the time within which payment could be made. To relieve collectors who were responsible for taxes which could not be collected, by reason of death, removal or extreme poverty, the board of civil authority and the selectmen were permitted to abate the taxes of such persons to an amount not exceeding one-twentieth of the whole tax of the town.[1]

In 1880 two methods of collecting were offered for the choice of the towns and cities. One was essentially the same as that formerly used.[2] Warrants were to be sent to the selectmen or the mayor, who were to give the rate-bills to the collectors, and the latter were to pay the treasurer of the commonwealth, taking from him duplicate receipts, one of which was to be sent to the auditor of accounts. Three per cent. of the amount contained in the warrants was to be credited to the collectors for collection fees and abatements.[3] If a collector did not promptly pay to the treasurer the amount collected, the treasurer was empowered to issue an extent to a sheriff for collecting it out of the property of the inhabitants of the town, who could recover, in an action of assumpsit, the amount taken and twelve per cent. additional. The other method,[4] which has been largely used, permitted the selectmen to deliver the tax-bills to the town or city treasurer, who gave public notice that taxes could be paid

[1] *Laws*, 1787, p. 151. [2] *Ibid.*, 1880, chap. xci, p. 91.

[3] This provision was repealed in 1892. *Laws*, 1892, chap. xiii, p. 20.

[4] *Laws*, 1880, chap. xc, p. 89.

to him at his office within ninety days. A deduction of four per cent. was to be made for all taxes paid in that period. After the ninety days had elapsed, a warrant for the unpaid taxes was to be given to the collector, returnable in sixty days. The treasurer was allowed one-half of one per cent. on all taxes paid to him, and five cents for each name attached to the warrant issued to the collector. In 1882 he was permitted to retain one per cent. of the amount paid in,[1] and the compensation has remained at that rate.

In 1884 began the practice of holding the towns and cities directly responsible for commonwealth taxes.[2] In the act of that year, for raising the grand list tax, it was provided that the town or city officers could either order a tax to meet the amount due, or draw an order on the town or city treasury, or borrow the amount on the credit of the town. In 1886, this method was simplified by making it the duty of the selectmen of a town or the mayor of a city, on receiving notice from the commonwealth treasurer, to draw on the town or city treasurer for the amount. If the treasury did not contain the full amount, a sufficient sum was to be borrowed and a tax imposed to meet the deficit. This is the present method of collecting commonwealth taxes from the towns and cities. The taxes of unorganized towns and gores are still collected in the old way, the commissioners making out rate-bills and delivering them to the collectors whenever a tax is levied.

§ 6. *Exemptions.* The general exemptions from taxation have been referred to in chapter IV. A few words should be said about special exemptions. When the University of Vermont was incorporated, in 1791, in addition to exempting the polls of the officers and students, the charter declared the estate of the institution, real and personal, to the amount

[1] *Laws*, 1882, chap. cvi, p. 92.

[2] *Ibid.*, 1884, chap. i, p. 3.

of £100,000, to be exempt. As other educational institutions were incorporated, exemptions from taxation to a certain amount were made, and occasionally one was exempted from all property taxes. The polls of the officers and students, also, were exempted. The exemptions as to real estate at length became general, while the practice of exempting the officers and students from poll taxes was dropped in the early part of the century.

The most notable exemption for the benefit of an educational institution was that of the township of Wheelock, which in 1785 was given to Dartmouth College. The charter of this town declared that

> the land and tenements in every part of said township, or precinct, shall forever be free and exempt from public taxes, that is to say, so long and while the income and profits shall be actually applied by said president and trustees, and their successors, to the purposes of said college and school.

Under this provision no commonwealth taxes have ever been laid on the lands of the town leased by the college trustees. Up to 1820, however, local taxes were laid on these lands and their improvements, but from that date until 1858 no taxes whatever were laid upon them. In 1857, the legislature allowed the town to return to the former practice of assessing local taxes on this property, and the act was held to be valid on the ground that the term "public taxes" as used at the time the charter was granted meant state taxes in distinction from town and other local taxes.[1] The greater part of the lands of the town, held by long leases, was conveyed by warranty deeds after an enabling act was passed by the legislature of 1851. The college now receives an annual income of about $500 from Wheelock.

Manufacturing began in Vermont a few years before the war of 1812, and all the companies incorporated from that

[1] Morgan *vs.* Cree, 46 Vt., 773.

time on were given special immunities. The two cotton and woolen mills first incorporated (in 1808) were exempted for fifteen years. With other companies the legislature was not so generous, and about 1830 special exemptions ceased. Since the civil war general laws favoring manufacturing companies have been passed.

The earliest law to assist transportation companies was that of 1815, exempting steamboats on Lake Champlain from taxation for a year. This was decidedly special, for the act granted to one company the exclusive right to navigate the waters of the lake within the commonwealth. The discrimination was afterwards pronounced unconstitutional. Canal companies incorporated in the decade after 1825 were usually exempted from taxation for ten years. The first railroads fared exceedingly well, and the Vermont Central in its first charter was exempted for twenty years. A later charter issued to this road (in 1843) provided that "the stock, property and effects of said company shall be exempt from all taxes levied by or under the authority of this state." This sweeping exemption was the occasion of much complaint in later years, but not until 1882 was a means found of compelling the company to pay taxes. In that year an act was passed denying the exemption to the company while the road was in the hands of any persons or corporation except the Vermont Central Company itself. The road had become a part of the Central Vermont, and there was no alternative but to submit to the inevitable.

§ 7. *License and Other Fees.* Fees have played a somewhat important part in the commonwealth-revenue, especially within the past dozen years. The earliest licenses requiring fees were liquor licenses, issued by order of the Council of Safety in 1778, as a police measure rather than a source of revenue.[1] The fee charged for these licenses was equivalent

[1] *Governor and Council*, vol. i, p. 210.

to about $1. The system of licensing inn-keepers was further developed in subsequent years, but the income was transferred to the county treasuries, and the subject properly belongs to a discussion of county revenue.

Licenses for peddling were required at an early date, and they are still continued. The first act was that of 1806.[1] The licenses were granted by the judges of the county courts, and the fee was $20 each year. In 1821 the following schedule was adopted: For every hawker or peddler travelling on foot, $50; for every such person with a single horse or other beast, $70; for every such person with a cart, $100.[2] In 1822 these fees were reduced to $30, $40 and $50, respectively;[3] and a further reduction in the three classes was made in 1833, when the fees were placed at $10, $15 and $20.[4] The proceeds of these licenses after 1846 were divided among the counties, and the fees charged were: If the person travelled on foot, $15; if with a wagon or other vehicle, $40; and if he carried for sale "any plaited or gilded ware, jewelry, watches, or any patent medicine, or any compound medicine, the composition of which is kept secret from the public," $100.[5] The county clerks were now to issue the licenses. The fees for the second and third classes were in 1847 reduced to $30 and $60 respectively.[6] The revenue from this source, which has been quite small since the civil war,[7] is still received by the commonwealth and distributed to the counties.

License fees were formerly received, also, for selling lot-

[1] *Laws*, 1806, chap. cxvi, p. 179.
[2] *Ibid.*, 1821, chap. xvii, p. 85.
[3] *Ibid.*, 1822, chap. xix, p. 21.
[4] *Ibid.*, 1833, chap. xii, p. 10.
[5] *Ibid.*, 1846, chap. xxvi, p. 28.
[6] *Ibid.*, 1847, chap. xxx, p. 24.

[7] The receipts for the fiscal year ending June 30, 1893, were $250.

[8] One of the articles for peddling which a license was required was tea. In this respect the law, in 1887, was declared to be repugnant to the constitution of the United States, in the case of State *vs.* Pratt, 59 Vt., 59.

tery tickets. In 1826 the fee was placed at $500, and in 1827 it was raised to $1000. The recognition of lotteries was not of long duration, however, and in the course of the next decade a prohibitory law was adopted. Before 1835 travelling "shows" were compelled to pay fees to the town authorities, and in that year the latter were ordered to turn the receipts into the commonwealth treasury.[1] Eventually the commonwealth itself issued licenses to circuses, the present fee for which is $1000. The cities and villages in which exhibitions are made also issue licenses and charge a smaller fee.

Other license fees or taxes which have contributed to the revenue of the commonwealth have been those on foreign insurance companies, commercial fertilizer companies, and Vermont corporations. In 1874 it was provided that each foreign insurance company pay as a license fee $5. Insurance brokers were obliged to pay $10 each for their annual licenses.[2] When the companies made their annual statements to the insurance commission, they also were obliged to forward $20 each as a fee. Provision was made for reciprocity with other commonwealths, if the latter imposed higher fees than Vermont. The law in regard to the fees of foreign insurance companies is still in this form. Since 1882 commercial fertilizer companies have been charged a license fee, which was fixed in that year at $50 for each brand.[3] In 1888 the fee was placed at $100, and one license is sufficient to cover all brands manufactured by one person or company.[4] License fees for corporations organized under the laws of Vermont were established by the corporation tax law of 1890.[5] Each corporation having a capital stock or deposits of $50,000 or less, is required to pay an annual

[1] *Laws*, 1835, chap. xv, p. 16.
[2] *Ibid.*, 1874, chap. x, p. 23.
[3] *Ibid.*, 1882, chap. cxix, p. 101.
[4] *Ibid.*, 1888, chap. cix, p. 119.
[5] *Ibid.*, 1890, chap. iii, p. 11.

fee of $10, and for every $50,000 or fractional part thereof above $50,000, $5; but no fee can be over $50.

Little need be said as to court fees. They have always been nominal. It is only within the last dozen years that the probate courts have paid their way; but the increase in revenue has been due principally to better administration. Since 1874 the fee for letters of administration or testament has been $2 for estates having a value between $150 and $5,000, and when the value exceeds $5,000, an additional $2 is paid for each $5,000 or fraction in excess of $5,000.[1]

§ 8. *Taxes on Corporations.* Up to 1882 corporations, as a rule, were taxed directly only on their real estate, while the value of the capital stock, less the value of the real estate, was listed to the shareholders. Very early, however, the custom of also taxing corporations directly on their business was begun, the corporations affected being exclusively banks and insurance companies. The first provisions were special, and were embodied in the charters of the corporations. The Bank of Burlington received its charter in 1818, and in the instrument it was provided that it should pay to the commonwealth treasury six per cent. of its profits.[2] Other banks were incorporated in the next few years, with the same provision as to taxes. Then, in 1824, came the incorporation of the first insurance company—the Vermont Fire Insurance Company—and in its charter yearly payments of six per cent. of the profits were enjoined.[3] Companies incorporated later were treated in the same way. In 1825 the agents of foreign fire insurance companies were commanded to execute bonds for $500 to secure the payment into the commonwealth treasury of eight per cent. on all premium receipts.[4] This act continued in force until 1830, when it was repealed. A special act affecting the

[1] *Laws*, 1874, chap. liii, p. 112.
[2] *Ibid.*, 1818, p. 192.
[3] *Ibid.*, 1824, chap. lv, p. 91.
[4] *Ibid.*, 1825, chap. xxix, p. 30.

Connecticut River Canal Company, in 1829, made provision for the taxation of profits when they exceeded six per cent. of the capital. When the profits were between six and twelve per cent., one-sixth of the excess over six per cent. was to go to the commonwealth; and when they were over twelve per cent., one-fifth was to be paid in.

Between 1830 and 1840 a somewhat varying policy regarding banks was pursued. In the former year the charter of the Bank of Burlington was renewed, and a new provision was made for taxes on profits.[1] The rate now became six per cent. on the profits from stock owned in the commonwealth, and ten per cent. on the profits from stock owned elsewhere. This discrimination against non-resident holders of stock was followed in the case of all banks for the next few years, but the rates were not the same. Thus, in 1831, the Bank of Woodstock was incorporated, and a tax of ten per cent. on the profits from home stock and twelve per cent. on those from foreign stock was imposed on it.[2] The original practice of taxing all profits at six per cent. was resumed in the case of the Rutland Railroad bank in 1836.[3] In 1839 the rule of taxing the banks at the rate of one-third of one per cent. of the capital stock paid in was tried.[4] But the rate was not uniform; in some cases it was one-half, instead of one-third, of one per cent. This method of taxation continued but one year. In the general banking act of 1840 all banks were commanded to pay to the commonwealth a tax of one per cent. of the capital stock paid in, "as a tax upon the income of such bank;" but this was in reality a measure adopted to secure the holders of Vermont bank bills, for the tax was made obligatory only when banks failed to keep sufficient deposits in Boston to insure the re-

[1] *Laws*, 1830, chap. xliv, p. 55.

[2] *Ibid.*, 1831, chap. xlii, p. 81.

[3] *Ibid.*, 1836, chap. xxxviii, p. 79.

[4] *Ibid.*, 1839, chap. i, p. 35.

demption of bills at par.[1] As a device for keeping the bank bills up to their face value it succeeded admirably; but in proportion as it met its primary object, it failed to add to the revenue of the commonwealth. But at that time the plan of taxing banks and insurance companies directly, as well as through the stockholders, was in less favor; and as the charters granted previously to 1840 expired, no provision was made, either in the new charters or by a general law, for taxing dividends. It was now thought sufficient to tax the holders of stock.

The business of foreign health and life insurance companies became taxable by laws passed by the legislature of 1852.[2] The rate was one-half of one per cent. on all premiums and assessments received within the commonwealth. But in 1854 the same tax was imposed on foreign life insurance companies doing business in Vermont as the commonwealth by which such companies were incorporated imposed on Vermont companies.[3]

For the next twenty-five years no legislation of importance affecting corporations was enacted, save an assessment on railroad companies for the purpose of paying the salary of a commissioner. The practice began in 1855, and the amount was apportioned among the railroads in proportion to the time devoted to particular roads and the expense incurred.[4] The appointment was made by the treasurer.

In the year 1878 began the series of laws on the taxation of corporations which culminated in the general law of 1882. Since the first taxes on the profits of banks and insurance companies, the method had been to tax the stock or other interest in corporations in the hands of the holders, exactly as other personal property was taxed, and let that end the

[1] *Laws*, 1840, chap. i, p. 7.

[2] *Ibid.*, 1852, chaps. xlv, xlvi, pp. 40, 50.

[3] *Ibid.*, 1854, chap. xxxii, p. 37.

[4] *Ibid.*, 1855, chap. xxvi, p. 28.

matter. Now the movement was on the corporations themselves. Savings banks, savings institutions and trust companies, were the first variety of corporations to be directly taxed, but the greater part of the proceeds of the tax were at first distributed to the towns in proportion to the amount of deposits owned in each town. The reform was effected in 1878, at the suggestion of the inspector of finance. Only deposits in excess of $250 had, previously to this time, been taxed to depositors, and the exemption had led to abuses. On this point the inspector said:

> I am satisfied from what I have been able to learn that a very small proportion of the deposits in savings banks, under the present law, are reached for taxation. In one of the largest banks in the state the treasurer was able to return for taxation, under the present law, only about *one-tenth* of its total deposits, from the fact that deposits, when made, are in many cases divided into sums of $250 or less, and placed to the credit of different persons, wrong residences and fictitious names given in some cases, and the law otherwise avoided; and, as in the case named above, some of the banks hold large deposits of non-residents, which of course escape all taxes.[1]

To defeat this deception, the plan of the inspector, that a tax of one-half of one per cent. on the total deposits and accumulations, after deducting the value of the real estate, be paid into the commonwealth treasury, was adopted and enacted into law.[2] The tax was in lieu of all taxes on deposits. The act did not apply to any institution which paid to the United States government a tax equal to one-half of one per cent. of the capital and deposits.[3] It was a step in the direction of commonwealth revenue, for it led to the provision in the act of 1882 by which the tax on deposits in sums

[1] *Vermont State Officers' Reports*, 1877–8, p. 222.

[2] *Laws*, 1878, chap. iii, p. 18.

[3] The deposits of such companies continued to be taxable to the depositors themselves.

of less than $1500 went to the commonwealth treasury. As it then stood, moreover, a certain amount came to the commonwealth, for only the tax on home deposits was distributed to the towns; the portion derived from the deposits of non-residents remained in the treasury. In the fiscal year ending on June 30th, 1880—the first year after the law was passed—the commonwealth received $10,487.22 out of the total of $33,900.33.[1]

The practice of taxing deposits in savings banks had been in vogue in all the New England commonwealths, and had worked well from a fiscal point of view. The ease of collection was not the least attractive feature which it possessed. The wisdom of the policy of allowing no exemption would be questionable if it were possible to distinguish the *bonâ fide* small depositors from those who make the exemption the means of escaping taxation. But wherever exemptions have been tried, they have led to abuses which fully counterbalance the social advantages of lightening the burden of that most deserving element of every community which out of slender incomes lays by something for future needs. New York, which has pursued the policy of exemption to a certain amount, has found the evil of evasion ever present.[2] The point in question is one in which a balancing between good and bad results is involved. Is the encouragement of small savings by working people sufficiently worthy of approval to outweigh the injustice and evasion inseparably connected with exemptions? Perhaps the better view has been taken in Vermont, if we regard one of the first duties of the state to be to strengthen the morals of the people in all practicable ways. The tax, moreover, is not heavy, and the disposition on the part of working people to save, which after

[1] Report of the inspector of finance, 1880, p. 8.

[2] Report of the commission of 1870, p. 36.

all is the thing to be considered,[1] is probably not affected. In reaching non-resident depositors the law secured a distinct gain in revenue, for the former law failed to touch their case.

Express and telegraph companies were the next to be included in direct taxation. In 1880[2] they were assessed at the rate of two per cent. of the gross receipts derived within the commonwealth, in lieu of all other taxes upon personal estate. It now remained to bring in insurance, railroad and other transportation companies, and this was done by the general act of 1882.[3] This act, which marks an epoch in Vermont taxation, was based mainly on gross receipts, but different rates were prescribed for different classes of corporations. It was denominated a tax upon "the corporate franchise[4] or business in this state of railroad, insurance, guarantee, express, telegraph, telephone, steamboat, and car transporation companies, savings banks, savings institutions and trust companies." By the act a commissioner of taxes was appointed, who prepared and sent to the officers of the corporations blanks for a statement of all facts necessary for estimating the tax. These blanks were three in number, one of which was to be returned to the commissioner, one sent to the commonwealth treasurer, and one retained, all having been filled out, signed and sworn to. With the blank returns to the treasurer was to go the tax due. Failure to make returns to the commissioner or to pay the tax within

[1] "Taxation is drawn from the total stock of wealth, including at any given time both capital and revenue. The real aim should be to so direct it as to interfere to the smallest extent with the action of the forces that promote accumulation." Bastable, *Public Finance*, p. 268.

[2] *Laws*, 1880, chap. lxxxii, p. 83.

[3] *Ibid.*, 1882, chap. i, p. 3.

[4] In the case of Rutland Railroad Co., *vs.* Central Vermont Railroad Co., in which the law was declared unconstitutional in so far as it taxed gross receipts from inter-commonwealth commerce, the court denied that it was a franchise tax, holding that it was a tax on gross receipts. 63 Vt., 1.

the required time involved the payment of $100 for each day's neglect. If foreign insurance companies were negligent, it was the duty of the insurance commissioner to revoke their licenses.

The tax on railroads was on the entire gross earnings, if the road was situated wholly within the commonwealth; and if the road was situated partly within and partly without the commonwealth, it was on such proportion of the gross earnings as the mileage of the trains run within the commonwealth bore to the mileage of all trains run on the main line of the road. The rates were two per cent. on the first $2000 a mile, or the total earnings, if they were less than that sum; three per cent. on the first $1000 or part thereof above $2000 a mile; four per cent. on the first $1000 or part thereof above $3000 a mile; and five per cent. on all earnings above $4000 a mile. The method of assessing railroads followed Michigan and Wisconsin in principle, but the rates of neither of those commonwealths were adopted. Insurance companies, both home and foreign, paid a tax of two per cent. on the gross amount of premiums and assessments received in their business within the commonwealth,[1] and, in addition to this tax, home life insurance companies were assessed one-half of one per cent. in their surplus over a reserve of four per cent. on existing policies. The value of real estate was deducted from this surplus.[2] Savings banks and savings institutions were taxed at the rate of one-half of one per cent. of the average amount of deposits and accumulations, with the value of the real estate owned by

[1] A deduction from the gross amount of premiums and assessments was made of unused balances on notes taken for premiums, sums paid for the return of premiums on cancelled policies, dividends to policy holders, and sums paid for reinsurance in authorized companies.

[2] In 1888 an act was passed providing for reciprocity in the taxation of foreign insurance companies, if any other commonwealth imposed higher taxes, fees, etc., than Vermont. *Laws*, 1888, chap. cxv, p. 125.

the corporation and the amount of individual deposits in excess $1500 each deducted; and trust companies and "savings banks and trust companies" were taxed at the rate of one per cent. of their average amount of deposits, with such percentage as any such institution paid to the United States government as a tax, the amount of assets invested in real estate, and individuals deposits in excess of $1500 each, deducted. The deposits in excess of $1500 were listed to depositors in the towns in which the latter lived. Express, telegraph and telephone companies were assessed at the rate of three per cent. of their gross receipts from business done in Vermont.[1] Steamboat, car and "transporation" companies paid at the rate of two per cent. The tax commissioner was permitted to examine, under oath, any officer of any corporation or company, or any persons, within the scope of the act, and to examine any books of account. The penalty for refusing to be sworn, to answer inquiries, or to show books of account, was not less than $500 nor more than $5000. If the commissioner found that, owing to an incorrect return, or to any other cause, the tax paid was too small, he could assess an additional tax.

The act relieved the real and personal property, from all other taxation, and such property was not to be listed. All provisions in charters of corporations exempting them from taxation, so far as such provisions conflicted with the act, were expressly repealed. This was aimed especially at the Vermont Central railroad company. The road was in the hands of receivers, and the mortgage held on it by the Central Vermont road was foreclosed in the following year. To add still greater clearness as to its purpose to put an end to the immunity of this road from taxation, the legislature

[1] From the gross receipts of telephone companies was deducted the amount paid to telegraph companies with which they were connected.

passed an additional act[1] to the effect that no person or corporation except the Vermont Central itself should be entitled to claim or have any exemption from taxation. These provisions had the effect of disposing of the long standing exemption, although the Central Vermont company successfully resisted the payment of taxes for the first six months of 1883, during which the foreclosure was taking place.[2]

Such a radical innovation on the practice of years as this act effected, was attended with some misgivings as to its success; but a revenue of $196,678.51 was derived from it in the year 1883, and the cases of friction in administration and of points of weakness in the phraseology of the act were few and comparatively unimportant. The tax was promptly paid by all but four corporations, two of which were in a condition of financial confusion which appeared to them to justify a refusal to pay for one of the two six months' periods of 1883. These companies were prosecuted, but the cases were dropped by legislative sanction before judgment had been rendered. All the trust companies paid their taxes (amounting in all to $56,506.70 for the year 1883) under protest, claiming that there was an unjust discrimination between them and savings banks, in that the latter were taxed at the rate of but one-half of one per cent. on deposits and accumulations, while they were taxed at the rate of one per cent. on their deposits. It cannot be said, however, that the law fully met the expectations of its framers. It had been hoped to derive from it a revenue nearly sufficient to meet the expenses of the commonwealth, and provision was made for the apportionment of whatever grand list taxes might be necessary among the towns on the basis of population, thus doing away with any need of equalizing boards.

[1] *Laws*, 1882, chap. vi, p. 23.

[2] See reports of the commissioner of taxes for 1883–4 and 1885–6, in *Vermont State Officers' Reports*.

But the revenue proved to be inadequate, and it was found necessary to still rely to a considerable extent on grand list taxes.[1]

Several amendments to the law were adopted in 1884, the most important being that by which the discrimination between trust companies and savings banks was removed.[2] The tax on savings banks, savings institutions and trust companies was now fixed at six-tenths of one per cent. on the average amount of deposits and accumulations, the average amount of assets invested in real estate and the average amount of individual deposits in excess of $1500 to each person being deducted. In 1886, the ruling of the commissioner that the term "railroads" included street railroads was sustained by the legislature.[3]

The tax on the gross receipts of transportation companies doing an inter-commonwealth business was declared unconstitutional by the Vermont supreme court in 1890,[4] and a

[1] Professor Ely is wrong in saying (*Taxation in American States and Cities*, p. 261) that Vermont levies no commonwealth tax on real estate. The tax on the grand list has never been wholly abandoned.

[2] *Laws*, 1884, chap. xliii, p. 45. [3] *Ibid.*, 1886, chap. iv, p. 5.

[4] Rutland Railroad Co. *vs.* Central Vermont Railroad Co. *et al.*, 63 Vt., 1. Judge Ross dissented, holding that the tax was one on property and franchise, and not on gross earnings *in specie*. In his opinion he took substantially the same position as that assumed later by the United States supreme court, when in Maine *vs.* Grand Trunk Railroad Co. it reversed its former position. The court had held in Fargo *vs.* Stevens (121 U. S., 230) and Philadelphia and Southern Mail Steamship Co. *vs.* Pennsylvania (122 U. S., 326) that a tax on gross receipts derived from inter-commonwealth traffic was contrary to that provision of the constitution which gives to Congress exclusive power to legislate on such traffic. In Maine *vs.* Grand Trunk this construction was not explicitly denied; that is, the unconstitutionality of a tax in gross receipts was still affirmed, but a franchise tax, measured by gross receipts, was permitted. Judge Ross, in dissenting from the Vermont decision, said: "On this construction Section 11 of the act declares that the value of the railroad rolling stock and right to operate them in this state is, for the purpose of taxation, to be determined by the gross earnings derived from such operation thereof per mile within this state. Section 12 rates the tax upon the property or franchise so valued, and Section 13 declares when the tax

revision of the law was rendered necessary. The revision[1] was more extensive than the decision demanded, as the opportunity was embraced to make other changes which experience had indicated as desirable. But the law remained the same in effect. Payments are now made within thirty days of the time within which returns are to be made to the commissioner and treasurer. Instead of basing the tax on railroad companies on their gross receipts, the law provides for elaborate returns as to the value of the property of such corporations, including the market value of stock and bonds, for the purpose of appraisal by the commissioner. A tax of seven-tenths of one per cent. is assessed upon the valuation. The commissioner is to take into consideration the corporate franchise in each case, and the appraisal is partly made on gross and net earnings. If the railroad does an inter-commonwealth business, the total valuation is divided by the number of miles of the main line to get the average value per mile, and this is multiplied by the number of miles within the commonwealth to find the value for purposes of taxation. The lieutenant-governor, auditor of accounts and secretary of state are a board of appeal from the appraisal made by the commissioner. This provision applies to steamboat, car and "transportation" companies, as well as railroads. In thus making the tax one on franchise and property, instead of gross receipts, the Connecticut law for railroads was substantially followed. But to retain in fact the original principle, an alternative to the above method—a tax on gross receipts—was offered,

shall be paid. This construction makes all the provisions of the act on this subject harmonious, renders the tax a tax upon the property or franchise, to be paid by the owner of the property or franchise, and avoids all constitutional objection. I do not find anything in Steamboat Co. *vs.* Pennsylvania, *supra*, nor in any of the decisions there referred to and commented upon, which militates against this construction of this act."

[1] *Laws*, 1890, chap. iii, p. 5.

also; and its simplicity and economy have led to its general adoption.[1] The rate on gross receipts of railroads is two and one-half per cent.; and for steamboat, car and "transportation" companies, two per cent. Telegraph companies, by this act, were to pay ten per cent. on their gross receipts earned within the commonwealth; telephone companies, three per cent.; express companies, four per cent., and sleeping-car companies, five per cent.

The tax on insurance and guaranty companies remains the same as in 1882, and the only change from the law of 1884 regarding savings banks, savings institutions and trust companies is an increase of the rate from six-tenths of one per cent. to seven-tenths. A tax of one per cent. was laid on the aggregate amount received by building and investment companies to be loaned without the commonwealth, and upon the aggregate amount of bonds, mortgages, choses in action and securities of any kind negotiated upon property without the commonwealth; but any such company or persons doing the business mentioned can avoid payment by giving to the tax commissioner the names and residences of persons, companies and corporations from whom the money is received and to whom the bonds, mortgages, etc., are negotiated, together with the amount received. In the event of such returns being made to the commissioner, the latter assesses the tax upon the person, company or corporation actually owning the money. This tax on building and investment companies is not to be imposed, however, upon corporations organized in the commonwealth which pay taxes upon their capital stock, premiums or deposits, unless the sales of bonds, mortgages, etc., exceed the total of capital stock, premiums and deposits. Tax-payers are required by the listing inventories to state through what investment

[1] All but two companies paid on gross earnings in 1891. One of the two was a village street car company. See report of the tax commissioner, 1891–2, p. 4.

company, firm or person loans without the commonwealth, stock, bonds, choses in action or securities of any kind, on which exemption from taxation is claimed, were negotiated.

During the months immediately following the passage of the act, the express companies sought to avoid the increase in the rate adopted for them (from three to four per cent.) by charging their patrons rates enough higher to increase their receipts by the additional part of the tax. At a special session of the legislature in the following August the arrangement was summarily disposed of by an act providing that no express company should charge a greater sum than was provided for by the schedules of tariff of the companies in force October 1st, 1890. Fines for violation of the act were provided. The express companies immediately resumed the former rates.

The only change in the law made at the session of the legislature in 1892 was in reference to telegraph companies. The rate for such companies had in 1890 been fixed at ten per cent. on gross receipts, with no option, contrary to the advice of the tax commissioner, who drew up the law of that year and proposed a rate of three per cent., with an option. The Western Union Company refused to pay its tax, alleging that the rate was so high as to be a violation of the constitutional provision that property shall not be taken except by due process of law, and, moreover, that any tax on gross receipts assessed against the company would be unconstitutional on account of the inter-commonwealth character of the business. The points seemed to be so well taken that an act[1] was passed giving telegraph companies the option of paying at the rate of sixty cents per mile of poles and one line of wire and forty cents per mile for each additional wire operated within the commonwealth, or of paying three per cent. of the gross earnings received within the

[1] *Laws*, 1892, chap. xv, p. 21.

commonwealth. The suit in chancery of the Western Union Company was discontinued, and the company paid into the treasury $2,500 in lieu of the taxes assessed against it for two years under the act of 1890, and of all penalties for non-payment.

The revenue from corporation taxes has been steadily growing, and since 1890 it has constituted by far the greater part of the ordinary commonwealth revenue. The total receipts from this source have been as follows, exclusive of corporation license fees:

1883	$196,678.51
1884	205,225.33
1885	200,685.70
1886	220,702.05
1887	238,989.06
1888	245,307.77
1889	268,153.84
1890	250,285.00
1891	307,484.87
1892	335,992.64
	$2,469,504.77

§ 9. *The Present Revenue.* According to the reports of the treasurer, the principal receipts of the commonwealth for the years ending on June 30th, 1892, and 1893, were from the following sources:

	1892.	1893.
License fees of commercial fertilizer companies	$1,300.00	$1,300.00
Fees from foreign insurance companies	5,205.00	4,784.00
Fees from judges of probate	17,554.75	12,959.07
Judgments and balances from county clerks	50,957.94	40,329.18
License fees of corporations	4,190.00	6,695.00
Corporation taxes in 1891 and 1892	307,484.87	335,992.64
Grand list tax of 1891	272,858.85	
Direct tax refunded by U. S. Government	179,407.80	

The corporation tax is an annual charge on the corporations and is looked to as the main source of revenue. Grand list taxes are now levied to make good the gap between the

total of corporation taxes, fees, etc., and the amount demanded by the total expense. As for the past few years they have been levied biennially they in reality yield less than half the amount produced by the corporation tax. The large sum received from the refunded direct tax was wholly unusual and should not of course be regarded in any estimate of the ordinary revenue of the commonwealth.

CHAPTER VI. COUNTY REVENUE.

§ 1. *License Fees from Inn-keepers.* Up to the second half of this century the counties relied for revenue almost altogether on fees for liquor licenses.[1] The licenses were granted by the county courts. In 1787 the maximum limit for fees was placed at £10 per annum. A law of 1798[2] allowed the court to fix the fees at any sum between $1 and $30, and in 1802 the limits were placed at $1.50 and $15.[3] With very little charge the law continued in this form until 1846, when a new schedule of rates, varying from $3 to $50, was adopted. The whole subject of licenses was at one time[4] given to the towns, but at the following session of the legislature, the former law was restored. The law of 1846 continued until 1850, when the towns again took charge of the business, under a local option law. With the adoption of a policy of prohibition in 1852 all revenue from this source ceased.

§ 2. *Taxes on the Grand List.* The exceptional expenses of the counties have always been defrayed by grand list taxes, and since liquor license fees were abandoned, nearly the entire expense has been met in this way. Up to 1872 each tax was separately authorized by the legislature. Some of the earlier taxes were made payable in kind, if the tax-payer chose, as in Rutland county in 1791 and 1792. In the former year the tax of a half-penny on the pound could be paid in "neat cattle, beef, pork, or merchantable grain; or in court orders or due bills, or hard money;" in

[1] Hemenway's *Vermont Historical Gazetteer*, vol. ii. p. 96.

[2] *Laws*, 1798, p. 16. [3] *Ibid.*, 1802, chap. cv, p. 169, [4] In 1833.

1792 it could be in "good merchantable wheat, at three shillings per bushel, or in orders drawn by the County Court, or in lawful money." The earlier taxes were usually for building or repairing county buildings, and in general the expenses of the county, which in New England has had little of the importance as a political division which it has enjoyed in the southern, middle Atlantic and western commonwealths, have been for court purposes. In 1872 an important reform in county taxation was effected. The assistant judges of the county court were instructed to ascertain the indebtedness and make an estimate of the ordinary expenses of the county for the ensuing year, on or before December 10th each year, and if they regarded it necessary an order was to be sent to the county treasurer, who by January 1st was compelled to issue a warrant to the collector of each town for the amount due. From 1882 to 1892 county, as well as commonwealth, taxes were apportioned to the towns on the basis of population. The legislature still provides for unusual expenses by special acts authorizing grand list taxes.

§ 3. *Other Sources of Revenue.* Since 1846 the receipts from peddlers' licenses have been distributed to the counties in proportion to population. This source of income now yields scanty returns. The proceeds of the tax on bank stock owned by non-residents also were given to the counties for a time after 1854.

CHAPTER VII. LOCAL REVENUE.

§ 1. *Taxes on Proprietary Rights.* In the first years of settlement in all the towns, after the Revolution as well as before, the taxes on proprietors' rights in the land were more important than grand list taxes. The scope of these taxes was indicated in Chapter II. Not only were they levied for surveys of land, but roads and even schools were afterwards supported by them. One of the earliest acts referring to proprietors' meetings authorized such meetings[1] to "transact any business which may concern the propriety, as the promoting of settlement, and laying out and making division of lands, laying out roads, and any other business whatsoever which concerns the propriety." Proprietors had a number of votes in the meetings proportionable to their interest in the land, and the taxes were in the form of rates on the rights. Proprietors' meetings were held for many years—even into the present century—but their importance diminished rapidly as the towns became organized and assumed control of local matters.

§ 2. *Lotteries.* Vermont came into being too late for the heyday of lotteries in America, but she nevertheless had a slight experience with that once popular means of raising public revenue. Her connection with them was mainly through the towns, however, the only exception to the rule being the license fees imposed in 1826–7 on the sale of tickets within the commonwealth. The requests for permission to open lotteries were numerous, but the General As-

[1] *Laws*, 1787, p. 121.

sembly exercised great care in making grants, and no general demoralization ever resulted. The last grant was made in 1804, and before that year public sentiment had become averse to the practice. By far the larger number of grants were for purely public purposes, such as making roads, building bridges or erecting a court house; but a number were designed to assist individuals in some private enterprise or to compensate them for serious loss by fire or other accident. Two cases in which lotteries were permitted for erecting breweries are recorded. The amounts which could be raised by the lotteries varied from £150 to £1,200. The conservatism of the General Assembly on this subject will be seen from the fact that the number of lotteries granted from 1783 to 1804 was but twenty-four.[1]

§ 3. *Land Taxes.* Land taxes were formerly prominent in local taxation. At first they were levied for a number of purposes, including houses for public worship, school-houses and bridges.[2] A general act of 1781 allowed the towns to vote land taxes for these purposes at their pleasure, so long as the rate of two pence per acre was not exceeded. This rule gave way to the practice of the General Assembly of allowing only expressly named towns to tax lands at a specified rate for making and repairing roads and building bridges, and the latter method continued for many years.[3] It seems to have been assumed that the owners of land, whether residents or non-residents, were interested in these objects in proportion to the land possessed. At first the selectmen levied the tax and had charge of the work of expending the money thus raised, but later the General Assembly assessed the tax directly and appointed commissioners to ex-

[1] See Z. Thompson's *Civil History of Vermont*, part ii, p. 222, for a list of lotteries granted.

[2] *Laws*, 1781, p. 440 of Slade's *State Papers*.

[3] *Ibid.*, 1786, p. 509 of Slade's *State Papers*.

pend it. "Public rights" were always excepted in assessing these taxes. The rates varied greatly, but three and four cents per acre were the more common levies in the later years during which this tax was in vogue.

About 1840 land taxes became unpopular, and after 1842 none were voted for some years. In 1848, however, one of six cents per acre was levied on Bradley Vale, in exactly the same manner as the practice had been before 1840. The revival met outspoken opposition. The committee of the Council of Censors on the powers of the constitution, to whom the query whether or not this tax was "unjust and unequal" was referred in the following year, reported:

> This mode of raising taxes for the building of roads has, from the early formation of the government, been adopted, and when the practice began to prevail there might have been an occasion for it that does not now exist. There may be some reason to doubt the constitutionality of that mode of raising taxes.[1]

The Council itself did not feel competent to pass upon the constitutionality of the tax, but its note of disapproval was sufficient to put an end to land taxes. Nevertheless, there was at least one such tax after this. In 1859 the legislature assessed a tax[2] of $2 on "each lot" of land in Lowell for making a road from Lowell Four Corners to Irasburgh. But this was an exceptional instance.[3] At the breaking out of the war, it may be said, this form of taxation had wholly disappeared in Vermont.

§ 4. *Taxes for Religious Worship.* The earlier settlers were New England men, with all the New England traditions. They believed fully in a connection between church

[1] *Journal of the Council of Censors*, 1849, p. 52.

[2] *Laws*, 1859, chap. cxiv, p. 151.

[3] A legislative committee, reporting upon the subject, questioned the justice the tax, but acquiesced in it because the land-owners affected were unanimous requesting it.

and state, and they were practically unanimous in their belief in the Christian religion. A large majority, also, were Congregationalists; yet they did not attempt to force the tenets and practice of that sect upon the rest. They took a more liberal position, asserting that "every sect or denomination of Christians ought to observe the Sabbath or Lord's day, and keep up some sort of religious worship, which to them shall seem most agreeable to the revealed will of God," but admitting that "no man ought to or of right can be compelled to attend any religious worship, or maintain any minister, contrary to the dictates of his conscience; nor can any man be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments, or peculiar mode of religious worship." These sentiments were announced in the first constitution, and they are in the supreme law of to-day. Taking thus the middle ground of support for Christianity but non-interference in behalf of any sect of that religion, the Vermont law-givers proceeded to make provision for the maintenance of religious institutions, profoundly convinced that the good of their young community demanded state support in this direction as much as for the public schools established at the same time.

The act of 1781, by which towns were permitted to levy taxes on lands for meeting-houses, school houses and bridges, was the first authorization of taxation for religious purposes. It is significant that this act contained the proviso that "nothing in this act shall be construed to deprive any persons of privileges secured to them by the constitution." The act was succeeded in October of 1783 by one[1] "to enable Towns and Pariches to erect proper Houses for public Worship, and support Ministers of the Gospel," and under it religious worship was sustained by public support in a good share of the towns for nearly twenty years. The

[1] *Laws*, 1783, p. 472 of Slade's *State Papers*.

act allowed two-thirds of the inhabitants of any town or parish, in a meeting properly called, to vote taxes on the grand list for the erection of church buildings and for the support of ministers. The two-thirds of the inhabitants were to be "of similar sentiments with respect to the mode of worship," and at least twenty-five legal voters in the affirmative were needed to give legality to any vote. The provision in the interest of the rights of the minority is interesting. It was introduced by this preamble:

> And whereas, there are in many towns and parishes within this state, men of different sentiments in religious duties, which lead peaceable and moral lives, the rights of whose conscience is not to controul; and likewise some, perhaps, who pretend to differ from the majority, with a design to escape taxation.

The enacting clause provided that every person should be considered as belonging to the majority unless he presented a certificate to the clerk of the town or parish from "some minister of the gospel, deacon or elder, or the moderator in the church or congregation," stating that the person belonged to that denomination. Until such a certificate was presented "such party shall be subject to pay all such charges with the major part, as by law shall be assessed on his, her or their polls or rateable estate." This provision gave opportunity for the members of the minor sects (of whom there were many in Vermont) to avoid being taxed for a service in which they did not participate; but no relief apparently was thought of for those who belonged to no sect of Christianty.

The law was on the whole satisfactory for some time;[1] yet opposition on the part of the minority showed itself quite

[1] Hon. Daniel Chapman, writing in 1849, said: "It was productive of great good; the people in different towns, collected from various parts of New England, more readily united for the support of public worship, in a mode to which they had been accustomed, than they would have done in any new mode."

early, and by 1801 it had increased to such an extent that in that year an amendment[1] to the act was voted by the General Assembly, repealing the clause requiring certificates from church officials and substituting one by which it became necessary for a voter, in order to avoid taxes for religious purposes, to deliver to the clerk of the town or parish the following declaration, with his name signed: "I do not agree in religious opinion with a majority of the inhabitants of this town (or parish)." But even this concession did not satisfy the discontented minority. The opposition to the principle of connection between church and state grew year by year, until, in 1807, the obnoxious act was repealed. Since that year religious organizations have had a purely private character, aside from the fact that in the towns organized under Vermont grants a small income from public land is annually divided among all denominations.

§ 5. *Taxes on the Grand List.* One of the objects for which taxes on the grand list were permitted after the Revolution was that referred to in the preceding section—the support of religious worship. Before this, however, while the war was still in progress, the towns were authorized[2] to tax their inhabitants "for the purpose of carrying on the war, for procuring a town stock of ammunition, for the support of the poor of such town, or any other purpose which they may find necessary, not inconsistent with the constitution of this state." This was ample authority for any taxes for general local purposes. A later act[3] was to the same effect. It provided that the inhabitants of towns could "grant a tax upon themselves for support of the poor in such towns, for defraying their incidental charges, or for any other purpose which they may deem necessary, not inconsistent with the constitution and laws of this state." From this period until

[1] *Laws*, 1801, p. 17. [2] *Ibid.*, 1780, p. 396 of Slade's *State Papers*.
[3] *Ibid.*, 1787, p. 157.

the present time the towns have had a free hand in voting grand list taxes for the ordinary expenses. For unusual objects, such as assisting a railroad company, the permission of the legislature has been necessary; but this permission has been readily given. The original case in which aid to a transportation company was authorized was that of the Northern Lock Navigation company, to take stock in which towns were allowed to tax themselves, if they wished.[1] The company was engaged in the project of connecting the Hudson River with Lake Champlain. It was not until 1823, however, that the Champlain canal was completed. The towns were given the option of levying this tax upon the grand list or upon the land, but it was not to exceed six cents on the pound, or three cents an acre. The act was more important as a precedent than in its immediate effect, for the enterprise soon languished for the time. Taxes for local purposes have been and are still voted in town meetings, and are usually the vital question before those assemblages. The rates vary greatly between the different towns. In 1885, is was found[2] that the rate ran from a minimum of one cent to a maximum of $3 on the dollar of the grand list, or from one-hundredth of one per cent to three per cent of the valuation for taxation. Fully one-half of the towns and cities, had rates in that year between forty cents and $1 on the dollar. These rates are exclusive of highway and special taxes.

§ 6. *Collection.* Local taxes have been collected in a manner very similar to that described for commonwealth taxes. The first act[3] on the subject provided that the selectmen deliver to the collector a rate-bill, and that an assistant or justice of the peace issue a warrant. The later laws

[1] *Laws*, 1796, p. 43.
[2] *Report of secretary of state on statistics of taxation.*
[3] *Laws*, 1779, p. 312 of Slade's *State Papers.*

made no important modification until 1880, when the optional method mentioned in chapter V was adopted. Recent acts have simplified collections by allowing the selectmen in making out tax-bills to include all taxes due in one bill, although the separate taxes must be indicated, with the rate of each. The board of civil authority, consisting of the selectmen and justices of the peace, have power to abate taxes to an amount not exceeding one-twentieth of the amount of the tax bill. Abatements usually apply to persons who have died insolvent, moved out of the commonwealth, or are otherwise unable to pay, and to those in whose tax bills there is a manifest error.

§ 7. *Highway Taxes.* Highway taxes have been a distinct category in Vermont taxation since the New York laws on the subject were passed. For many years they were paid exclusively in labor, although opportunity was always given for money payments. After the Vermont government was organized, one of the first acts of the General Assembly was to pass "An Act for making and repairing public Highways," the chief provision of which was that every male between the ages of sixteen and sixty should work four days each year on the highways.[1] Ministers of the gospel were the only exception to the rule. The administration was simple. The selectmen made out a rate-bill, each person subject to the tax being rated at sixteen shillings per day. The rate bill was given to the surveyors, who took charge of the highway work and saw that each person whose name was on the list did his four days' work. The goods and chattels of those neglecting or refusing to work were levied upon, and a penalty for the refusal or neglect was also prescribed. In 1787, twenty-one and sixty years were made the limits of age,[2] and the exempted class was increased so as to include "ministers of the Gospel improved within their respective

[1] *Laws*, 1779, p. 329 of Slade's *State Papers*. [2] *Ibid.*, 1787, p. 79.

towns, the President, Tutors and Students of Colleges for the time being and annual Schoolmasters." The rate was now fixed at four shillings, to correspond with the greater value of money after the close of the war. An act of 1792[1] authorized the division of towns into districts, and made rules regarding the use of teams, etc. If the four days' work proved insufficient, an additional tax could be voted by any town. In 1803 it was enacted that towns neglecting to repair their highways could be indicted.[2]

In the latter part of the last century and the first part of this, turnpike companies occupied a prominent place in the life and activities of Vermont towns. The leading highways were taken in charge by them, under charters from the General Assembly. The result was very much less attention to the subject of highways by the towns themselves. Usually the companies had entire control of repairs on their roads; but in the course of time it became the practice to allow the inhabitants of a town to work out their highway taxes on the turnpikes and thus avoid the payment of toll.[3] Eventually the towns took possession of the turnpikes and tolls were abolished.

Before 1824 the highway tax was a poll tax; each adult male, with certain exceptions, worked at least four days, or paid an equivalent in money. In that year, however, it became a tax upon the grand list, and the rate was fixed at four cents on the dollar.[4] In 1826 this rate was changed to six cents.[5] At different times special inducements were offered for securing payments in money, instead of labor. Thus, in 1837, it was provided that if the tax was paid in money two-thirds only of the amount assessed need be paid.[6] In 1838, three-fourths of the assessed tax was taken as a full

[1] *Laws*, 1792, p. 47.
[2] *Ibid.*, 1803, chap. xcviii, p. 125.
[3] *Ibid.*, 1815, chap. lxxx, p. 77.
[4] *Ibid.*, 1824, chap. xxviii, p. 29.
[5] *Ibid.*, 1826, chap. xxii, p. 13.
[6] *Ibid.*, 1837, chap. xxvii, p. 17.

payment in money.[1] The rate of the tax was fixed at eighteen cents on the dollar in 1842.[2] The towns were free to tax themselves to a greater amount than the stated rate, if they chose; the rate mentioned was the minimum on which the commonwealth insisted. The rate of eighteen cents on the dollar continued for over twenty years; but there were occasional changes of policy, such as allowing the towns to give the entire work of repairing roads and bridges to contractors.[3] In 1858 it was made possible for towns to vote that the tax be paid in money, in which case the rate was fourteen, instead of eighteen, cents.[4] An act of 1864 changed the rate to twenty-five cents, and when towns voted that the tax be paid in money it was twenty cents;[5] and these rates continued until 1882, when they were changed to twenty and fifteen cents, respectively.[6]

Previously to 1886 the care of highways and bridges remained exclusively in the towns; but in that year the aid of the commonwealth was extended to those towns which had been compelled to maintain highways and bridges from which neighboring towns derived a good share of the benefit. Commissioners reported as to the proportion which each town and the commonwealth should pay, and the county court gave the final decision.[7] This measure, which still obtains, proved to be the entering wedge of a reform in the management of highways and bridges which was effected in 1892.[8] The office of surveyor was then abolished, and a road commissioner is now elected in each town. A tax of twenty cents on the dollar must be levied in each town each year, and an additional tax of five cents on the dollar must also be levied for payment to the commonwealth treasury.

[1] *Laws*, 1838, chap. xi, p. 8.
[2] *Ibid.*, 1842, chap. xvii, p. 22.
[3] *Ibid.*, 1856, chap. xxx, p. 33.
[4] *Ibid.*, 1858, chap. xxix, p. 32.
[5] *Ibid.*, 1864, chap. lxxiv, p. 80.
[6] *Ibid.*, 1882, chap. x, p. 26.
[7] *Ibid.*, 1886, chap. xvi, p. 12.
[8] *Ibid.*, 1892, chap. lvi, p. 54.

The five-cent tax is distributed among the towns, villages and cities on the basis of road mileage; and the poorer and less populous towns are in this way assisted in meeting the expense of repairing their highways and bridges. It should be said that none of this apportioned money can be devoted to a bridge or culvert having a span exceeding four feet. Payment by labor has been wholly eliminated from highway taxes by this act, which marks the end of a system over one hundred and twenty years old.[1] The New York highway tax acts have at last been supplanted.

§ 8. *Village and City Taxation.* What has been said thus far concerning local revenue applies mainly to the towns, which are the most important units in this largely agricultural commonwealth. As to incorporated villages and cities, it may be said in general that they have full power to levy taxes for the purposes for which they were incorporated. In the case of villages, the point in which they differ from towns, in respect to taxation, is that they usually are allowed to retain only a portion (frequently two-thirds) of the highway tax, the remainder going to the towns within which they are situated. The charters of both cities and villages make provision for special assessments for street improvements, and these are constantly becoming more important sources of revenue in the larger places.[2] Water rates, also, are a source of considerable revenue. The villages have, in many instances, absorbed the fire districts, which formerly were taxing bodies of minor importance. Village taxes are assessed upon that portion of the grand list which is included within the charter limits.

[1] Vermont has thus preceded her parent commonwealth in effecting this needed reform. New York still permits highway labor in payment of taxes.

[2] This first special assessment in Vermont was made in 1804, for lowering the falls of Otter creek. The sum of $2,000 was raised for that purpose. *Laws*, 1804, chap. c, p. 130.

§ 9. *Public Domain.* The history of the public domain belongs to that of local revenue, but it can be but briefly referred to in this monograph. The charters granted by Governor Wentworth set apart in each town, besides five hundred acres for himself, a right for the English Society for the Propagation of the Gospel in Foreign Parts, one for a glebe for the Church of England, one for the first settled minister of any denomination, and one for town schools. The government of Vermont also made liberal provisions for religious and educational objects, one right in each township granted being reserved for a college, one for a county grammar school, one for town schools, one for the first settled minister, and one for the general support of the ministry. The grants to the Propagation Society and to the Church of England did not meet with much favor at the hands of a population among whom Episcopalians were comparatively few, and repeated efforts were made to divert them to the support of the schools. The church, however, stoutly resisted and carried its cases to the United States supreme court, winning in one, but meeting defeat in the other. The lands of the Propagation Society were finally restored to it by a decision in 1830, after a controversy of nearly forty years.[1] The glebe lands, on the other hand, were given to the support of the schools by a decision in 1815,[2] although after 1805 they had already been devoted to that purpose in all but a few towns. The rights designed for the first settled minister gradually came into the possession of clergymen and ceased to have public importance. The rights for the support of the "gospel ministry" still occupy a place in the finances of the towns chartered by the Vermont government. Formerly the proceeds were divided in proportion to the number of "rateable polls" in each society, but in recent years each

[1] Propagation Society *vs.* Town of Pawlet and Ozias Clarke, 29 U. S., 480.

[2] Town of Pawlet *vs.* Daniel Clark and Others, 13 U. S., 292.

society in the town has received an equal part. The legislature has charge of the rights devoted to the university and the county grammar schools. The town school lands furnish a small income in each town. In 1882 the appraised value of the lands devoted to religious uses was $184,434; that of the school lands, $899,753; that of the grammar school lands, $173,557, and that of the lands devoted to the university, $233,620; making the total valuation nearly $1,500,000. It is probable that the present valuation would not be far from the same figures.

§ 10. *School Taxes.* Until 1892 the school district was the unit in school matters in Vermont, and the money derived from town taxes, the school lands and the United States deposit and Huntington funds[1] was distributed to the districts, by a system of increasing complexity. Only the more significant changes in practice since schools began to be established soon after the Revolution will be indicated here. Whatever schools existed before the war were of an exceedingly simple character and were based wholly on local initiative. The first act of the Vermont General Assembly for the encouragement of schools was passed in October, 1781, and allowed the towns to levy a land tax, not exceeding two pence per acre, for building houses for public worship, school-houses and bridges.[2] The next act was more comprehensive.[3] It permitted each town to divide itself into districts, and the selectmen, with "one or more meet person" in each district, were appointed trustees of the schools,

[1] The fund received by Vermont on deposit as its share of the surplus revenue distributed in 1837 amounts to $669,086.79. It is distributed among the cities and towns in proportion to the population, and the share of each town and city is placed in the hands of trustees for investment. The income is devoted wholly to public schools

The Huntington fund, of about $211,000, is also devoted to the support of schools, the income being distributed annually to the cities and towns.

[2] *Laws*, 1781, p. 440 of Slade's *State Papers*. [3] *Ibid.*, 1787, p. 136.

and were to pay to a district prudential committee annually the income arising from the lease of the school lands, in proportion to the number of scholars in each school. The districts were compelled to raise one-half of the additional amount needed by a tax on the grand list, and the other half could be raised either by another tax on the list, or by subscriptions, proportionable to the number of children. The collectors' warrants were issued by the justice of the peace. An act of 1797, elaborated their system.[1] No tax could be raised unless two-thirds of the inhabitants of a district voted for it. The towns themselves could now levy a tax on the list, and the proceeds were distributed to the districts on the basis of children between the ages of four and eighteen years. The property in a district or a town owned by a non-resident of that district or town could not be taxed for schools.

Such was the law on which legislation was based for nearly one hundred years. No modification seems to have been made in it until 1810, when a tax of one cent on the dollar of the grand list was imposed on each town, to be divided among the districts as the income from the school lands and the voluntary town tax had been.[2] The towns could make the tax payable in any kind of produce. No district could receive any part of this tax unless it had kept a school of at least two months in the same year, with its own money. In 1818 the property of non-residents, as well as residents, was made taxable for schools.[3] From the fact that in 1821 it was made the duty of grand jurors each year to inquire whether the towns in the county had collected the tax of one cent on the dollar, and to indict negligent towns,[4] it may be inferred that compliance with the school laws was not the in-

[1] *Laws*, compilation of 1797, p. 493.

[2] *Ibid.*, 1810, chap. cvii, p. 153.

[3] *Ibid.*, 1818, chap. xv. p. 84.

[4] *Ibid.*, 1821, chap. xx, p. 90.

variable practice at this time. In 1824 the town tax was made two cents, instead of one cent, and it was again enacted that towns could vote to have the tax paid in produce.[1] Another increase in the rate was effected in 1826, when three cents were substituted for two.[2] This is to be explained by the decrease in the amount of the grand list. In 1827 a general law was adopted, containing the principle of the law of 1797 and embracing the amendments subsequently adopted, with minor changes.[3] One of the provisions of this act was that when the amount of funds for the support of schools in any town should yield an income as great as that derived from the three-cent tax, the tax, or as much of it as would not be needed to make up that amount, could be omitted. The change in the amount of the grand list made by the revision of the list in 1841 caused, also, a change in the rate of the school tax, which now became nine cents on the dollar.[4] Section 2 of the act making this change contained this provision respecting the town tax, made necessary by the addition of the United States surplus fund to the other school funds of the towns:

> If in any town the income appropriated in such town for the use of schools, after deducting one-half of the income arising from the United States deposit money, shall amount to as large a sum as would be raised by such tax, the selectmen shall not be required to assess the same; or if such income shall be less, the selectmen shall assess a tax only sufficient, with such income, to amount to the sum which would be raised by a tax of nine cents on the dollar.

The custom of assessing a part of the expense of supporting schools on the scholars continued until 1864,[5] when the stat-

[1] *Laws*, 1824, chap. vii. p. 10.

[2] *Ibid.*, 1826, chap. xliii, p. 22.

[3] *Ibid.*, 1827, chap. xxiii, p. 19. Under this law only the children attending school could be assessed for an additional tax. Brown *vs.* Hoadley, 12 Vt., 472.

[4] *Ibid.*, 1842, chap. xx, p. 23.

[5] *Ibid.*, 1864, chap. lxi, p. 69.

ute was amended so as to provide that all expenses be met by taxes on the grand list.

The division of the money derived from school funds and the town tax has been on different bases at different times. At first, as has been indicated, it was on the number of school children in a district. Later, one-fourth of the total was divided equally among the districts, and the remainder was divided in proportion to the number of children. Still later, the portion divided equally became one-third, and for a number of years before the district system was abolished in 1892, it was one-half, unless the amount to be divided was over $1200. In later years it became the practice to make the estimate on attendance instead of the number of scholars. In 1870 the towns were permitted to adopt the town system,[1] and those voting to adopt it were relieved from the complications connected with the division of school money. A few years before the change to the town system the town tax was fixed at twelve cents on the dollar. In 1888 a new school law was adopted, which contained minute directions as to the division of the money.[2] A commonwealth tax of five cents on the dollar was imposed in 1890 for the benefit of the schools.[3] It amounted to $89,029.77, and was distributed among the towns, cities, unorganized towns and gores in proportion to the number of legal schools kept in the preceding school year. Places not having the town system nor graded school districts divided the money equally among the districts which had kept legal schools, and those having the town system or graded school districts divided it as the other school money was divided. The tax was sporadic, however; it was not continued in 1892.

The division of so large a portion of the town and commonwealth taxes and the income from the school funds

[1] *Laws*, 1870, chap. x, p. 38.
[2] *Ibid.*, 1888, chap. ix, p. 38.
[3] *Ibid.*, 1890, chap. vi, p. 23.

among the districts without regard to the number of scholars resulted in great inequalities of taxation between the districts. The rates range from 5 cents to $2.50 on the dollar of the grand list.[1] But in 1892 the town system was adopted. The towns and cities now devote the money coming from the school funds and taxes to the schools in what seems to each the most beneficial manner. The selectmen of each town must appropriate for schools each year a sum not more than one-half and not less than one-fifth of the grand list of the town, and must assess a tax sufficient to meet the appropriation. The towns may, by special vote, devote a still larger sum to the support of schools. The new system has its fiscal as well as educational advantages, and it is undoubtedly the most important legislative action taken by Vermont in recent years.

§ 11. *Miscellaneous Local Revenue.* Since 1876 the fees for dog licenses have gone to the town and city treasuries. These fees are $2 for males and $4 for females. In Burlington the receipts from this source are devoted to the public library. All the towns and cities also receive a greater or less income from the sale of liquor by the public agents, these being the only authorized vendors of liquor.

[1] *Laws*, 1892, chap. xx, p. 24.

CHAPTER VIII. STATISTICS.

§ 1. *Of the Grand List.* Statistics of the grand list before 1842 are of little value, as property before that year was listed at fixed valuations, very largely. In 1781 the list was £149,541; in 1791 it was £324,796; in 1796 it had increased to £477,651; in 1806 it was $2,738,531; in 1818, $2,995,658; in 1830, $1,834,980;[1] in 1836, $2,057,257; in 1840, $2,199,762. Since 1841, however, property has been listed nominally at its true value, and the following table gives the grand lists that have been made upon that basis, for a number of years sufficient to show the tendency of valuations:

[1] The decrease was due to the changes in the valuation of personalty made by the act of 1825.

TABLE NO. I.—THE GRAND LIST.

Year	Real estate.	Personal estate.	One per cent.	Attorneys, etc.	Polls.	Completed grand list.	Rate[1]
1842	$56,623,752	$12,900,399	$695,241.53	.....	$47,785	$743,026.49	.10
1845	56,585,773	10,926,998	675,127.72	.....	100,490	742,682.21	.10
1847	56,608,921	10,695,698	673,046.20	$3,555	97,672	766,011.98	.12
1850	57,013,390	13,097,731	701,111.22	2,867	103,026	806,164.22	.15
1853	61,720,414	15,281,283	770,016.97	.....	106,468	875,442.97	.16
1856	69,284,400	16,902,561	861,869.61	.....	106,630	966,759.61	.14
1860	70,341,721	16,530,130	981,764.72	.....	113,006	979,604.72	.20
1862	69,951,685	15,773,204	857,248.89	Dogs.	109,440	964,210.89	.80
1864	69,929,215	18,045,973	879,751.80	11,764	124,484	1,014,818.33	$1.25
1866	71,638,678	21,435,281	930,739.59	10,129	134,208	1,074,780.59	.55
1868	71,172,113	21,846,691	930,188.04	12,166	133,920	1,075,814.04	.40
1870	80,993,100	21,555,428	1,025,485.28	15,878	137,362	1,177,583.28	.50
1872	82,381,647	19,623,584	1,020,052.31	17,745	138,414	1,173,058.31	.40
1874	79,724,217	19,330,432	990,546.49	18,939	139,142	1,145,115.49	.30
1876	81,198,291	18,519,312	997,176.03	18,862	142,458	1,154,902.03	.25
1878	70,919,120	16,845,123	877,642.43	.....	144,784	1,019,290.43	.30
1879	71,017,981	15,375,533	863,935.14	.....	146,590	1,007,407.14	.40
1880	71,114,747	15,037,262	861,520.09	.....	144,912	1,003,500.09	.20
1881	102,437,102	46,896,967	1,493,340.69	.....	147,296	1,637,620.69	.17
1882	106,372,797	46,218,508	1,525,913.05	.....	147,514	1,670,607.05	.10
1883	104,549,674	49,586,310	1,541,359.84	.....	151,310	1,690,227.84	.....
1887	104,534,036	50,060,171	1,545,942.07	.....	158,314	1,704,256.07	.12
1888	110,676,818	49,911,339	1,605,881.57	.....	158,314	1,762,418.57	.....
1889	111,683,680	49,163,677	1,608,473.57	.....	160,384	1,767,059.57	.20
1890	112,895,125	49,203,388	1,620,985.13	.....	161,818	1,780,525.15	.....
1891	108,379,751	48,937,118	1,573,168.69	.....	161,946	1,733,638.69	.18
1892	109,947,551	48,878,272	1,588,258.23	.....	165,278	1,751,745.23	.....

§ 2. *Of the Finances in 1890.* The following table, kindly furnished me by the census office, is a comparative statement of the finances of the commonwealth in 1890 and 1880, and needs little explanation. It will be observed that, while the debt of all the taxing units has decreased since 1880, taxes have increased in the total and per capita, except in the commonwealth and county divisions. There has been, however, an increase in commonwealth taxes, also, since 1880, if the corporation taxes, which are not mentioned in this table, are included.

[1] The rate is usually expressed as a certain number of cents on the dollar of the list. It has also been referred to as the "rate per cent." No confusion need result from the use of the two expressions.

TABLE NO. II.—FINANCES IN 1890 AND 1880.

	1890.	1880.	Increase or decrease.	Percentage of increase or decrease.	Per capita. 1890.	Per capita. 1880.
Population—Total	332422	332286	d 136	d 0.04		
Places having 4000 or more	74635	62217	12418	19.96		
Places having less than 4000	257787	270069	d 12282	d 4.55		
Valuation—Total	$162098513	$86806775	$75291738	86.73	$487.63	$261.24
Real estate	$112895125	$71436623	$41458502	58.04	$339.61	$214.98
Personal property	49203388	15370152	33833236	220.12	148.02	46.26
Total of places having 4000 or more population	42462495	17609376	24853119	141.14	$568.94	$283.03
Total of places having less than 4000 population	119636018	69197399	50438619	72.89	464.09	256.22
Debt less sinking fund (net debt)	$3785373	$4499188	d $713815	d 15.87	$11.39	$13.54
Total valuation less net debt	158313140	82307587	76005553	92.34	476.24	247.70
Taxation—Total	$2105395	$1745111	$360284	20.65	$6.33	$5.25
Commonwealth	$176651	$403286	d $226635	d 56.20	$0.53	$1.21
County	11302	15344	d 4042	d 26.34	0.03	0.05
Minor divisions except for schools	1296625	896775	399850	44.59	3.90	2.70
Minor divisions for schools	620817	429706	191111	44.47	1.87	1.29
Total of places having 4000 or more population	651787	480899	170888	35.54	$8.73	$7.73
Total of places having less than 4000 population	1453608	1264212	189396	14.98	5.64	4.68
Indebtedness—Total, Net, Commonwealth and Local	$3785373	$4499188	d $713815	d 15.87	$11.39	$13.54
Bonded	2902207	3218863	d 316566	d 9.83	8.73	9.69
Floating	1071280	1336798	d 265518	d 19.86	3.23	4.02
Sinking fund	188204	56473	131731	233.26	0.57	0.17
Commonwealth debt, net	$148416	$151020	d $2604	d 1.72	$0.45	$0.45
County debt, net	5108	23421	d 18313	d 78.19	0.01	0.08
Minor divisions except school districts, net	3529014	4167469	d 638455	d 15.32	10.62	12.54
School district debt, net	102835	157278	d 54443	d 34.62	0.31	0.47
Net debt per $1000 of total valuation	$23.35	$51.83	d $28.48	d 54.96		

d. Decrease.

CHAPTER IX. CONCLUSION.

The history of taxation in Vermont, although crowded into but about one hundred and twenty-five years, is a history of development from the most primitive methods to a system characteristic of the industrial activity of to-day—that on corporations, based mainly on gross receipts. Under New York, highway taxes paid in labor, on a basis of equality of faculty, were firmly established. That system came down to 1892, although the basis of the tax had been transferred from polls to the grand list. The influence of New York is hardly observable elsewhere in taxation. Taxes for general purposes were levied for the most part, both under New York and during the early years of the Vermont government, on land; they were in the form of taxes on proprietors' rights for many local purposes, of land taxes in the towns for maintaining roads and bridges, and of commonwealth taxes for purposes in which it was deemed the land-owners had a peculiar interest. The local land taxes for roads and bridges continued through the first half of this century.

These two forms of taxes bore the brunt of the first demands for the support of government. Next, with the new state, came the grand list. This at first contained three distinct elements—polls, income and general property. It still contains the first and the third, the income element having disappeared in 1850. General property was at first estimated in accordance with schedules of fixed valuations for all the various kinds of property ordinarily possessed, and this method of assessment continued until 1841, except in re-

spect to real estate, which was appraised after 1819. Deductions from personal property for debts have always been permitted. The fate of the general property tax in Vermont has been quite similar to that observed in other commonwealths. It has been found impossible to obtain true valuations for realty and to bring to light the full volume of personalty. Yet since the revision of the law in 1880 it must be said a degree of success has attended the listers' task.

For a portion of this success, however, the corporation tax law of 1882 ought to receive credit. It may be asserted with confidence that the decrease in commonwealth taxes on the grand list, made possible by the corporation tax law, has removed to a very great degree the animus of low valuations. The towns see that if the taxes to be paid are principally for local purposes, it makes little difference whether realty is set in the list at its full value or at a valuation nearer one-half the true value; for in the former case the rate will probably be about one-half what it will be in the latter. Still, the law in its present form does not give complete satisfaction. Taxes on personalty are still dodged, as they will be so long as intangible personalty is included in the grand list. Deductions for debts are so large that it is frequently suggested that no deductions whatever be allowed. The fact that in the past ten years no material changes in the composition of the grand list have been made, is sufficient proof that these abuses are not at present flagrant enough to constitute an indictment of the system.

The changes in the present law most frequently suggested in recent years have been the exemption of mortgages from taxation and the deduction of debts on real estate from the valuation of the real estate. The plan tried by Massachusetts and California of taxing both mortgagor and mortgagee at the situs of the real estate, each in proportion to his interest in the property, also was discussed at the last session

of the legislature. But a more successful claimant to the consideration of the legislature was the proposition to tax collateral inheritances. It passed the lower house, and had it been better understood it is believed it would have received favorable treatment at the hands of the senate. As it was, it was defeated at the instance of the finance committee of that body. If prophecy is permissible, it may be said that it seems likely that the next important step in taxation in Vermont will be along the line of inheritance taxes. Such taxes, with the corporation taxes, would probably make it possible to forego to a large extent grand list taxes for commonwealth purposes, and grand list taxes would thus become practically a local institution. But it is to be remembered that Vermont is neither a large nor, comparatively, a rich commonwealth, and that inheritance taxes would not yield such regular returns as they have yielded in New York and Pennsylvania. It is therefore likely that grand list taxes for commonwealth revenue would remain as the elastic means by which the amount needed in excess of corporation and inheritance taxes could be readily raised.

APPENDIX I.

THE VERMONT STATE BANK.

Vermont made no experiment in paper money after the issue of bills of credit of 1781 until 1806, when a bank was established. The bills of credit were issued for a period of about fourteen months, and after the expiration of that time they were redeemed as presented. It is remarkable that the success of this issue did not prompt the people to try the plan a second time; but the revenue from land sales doubtless had its influence in promoting a conservative policy. The subject of more paper money was agitated in 1786, when discontent and financial distress were rife in Vermont, as in Massachusetts, and the General Assembly submitted it to a popular vote, with the result that the proposal was defeated by 2197 votes to 456. The light vote is evidence of a lack of confidence in the scheme. The bank of 1806 had at first two branches—one at Woodstock and the other at Middlebury[1]—and in 1807 branches at Burlington and Westminster were added. The directors were elected by the legislature, and one of the sections of the act of 1806 was to the effect that bills should not be issued to an amount greater than the deposit of silver, gold and copper coin, until the deposit amounted to $25,000, after which bills to the extent of three times the deposit could be issued; but at no time could the latter exceed $300,000. In 1807 the revenue of the commonwealth was deposited in the bank. An

[1] *Laws*, 1806, chap. cx, p. 164.

act of 1810 restricted the amount of bills that could be issued to twice the deposit of coin, and other measures were adopted with the object of sustaining the credit of the bank; but already suspicion of its ability to cash its bills was abroad. In 1812 the Westminster branch was closed, and the probable failure of the Middlebury branch to redeem announced. After an investigation by a committee, the legislature, in the same year, ordered the directors to issue no more bills. The Middlebury and Burlington branches were removed to Woodstock, and a beginning was made of the process of closing up the affairs of the bank. The failure was largely the result of circumstances for which the directors were not responsible. The embargo and the non-intercourse act had paralyzed general business, and the bank suffered from the failure of banks in other commonwealths. Governor Galusha in his message of 1809[1] briefly refers to the difficulties of the bank: "The failure of private banks in the vicinity of this state; the rejecting our bills by the law of one state; and the policy or caprice of others, has embarrassed our mercantile intercourse with the adjoining states." The loss to the commonwealth through the failure has never been stated. Thompson[2] speaks of it as "very considerable," but the editor of the *Governor and Council* gives it as his opinion that, whatever it was, it was compensated for by the advantage coming to the people through a comparatively sound currency.[3] The individual loss was slight, for the commonwealth was back of the bills, and the latter were redeemed or exchanged for interest-bearing notes. The bills of the bank were made receivable for many taxes voted after 1807.

[1] *Governor and Council*, vol. v. p, 401.

[2] Z. Thompson's *Civil History of Vermont*, part ii, p. 137.

[3] *Governor and Council*, vol. v, p. 451.

APPENDIX II.

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